

Vol. II
TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM 1943

No. 27

**GENERAL COMMITTEE OF ADJUSTMENT OF THE
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
FOR THE PACIFIC LINES OF SOUTHERN
PACIFIC COMPANY (AN UNINCORPORATED
ASSOCIATION), PETITIONER.**

22

**SOUTHERN PACIFIC COMPANY AND GENERAL
GRIEVANCE COMMITTEE OF THE BROTHER-
HOOD OF LOCOMOTIVE FIREMEN AND ENGINE-
MEN (AN UNINCORPORATED ASSOCIATION)**

No. 41

**GENERAL GRIEVANCE COMMITTEE OF THE
BROTHERHOOD OF LOCOMOTIVE FIREMEN
AND ENGINEMEN (AN UNINCORPORATED AS-
SOCIATION), PETITIONER,**

23.

GENERAL COMMITTEE OF ADJUSTMENT OF THE
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
FOR THE SOUTHERN PACIFIC LINES OF
SOUTHERN PACIFIC COMPANY, ETC., ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE NINTH CIRCUIT.

PETITIONS FOR CERTIORARI FILED { **MARCH 22, 1942.**
 { **APRIL 13, 1942.**

CERTIORARI GRANTED MAY 24, 1948.

No. 9991

United States
Circuit Court of Appeals

For the Ninth Circuit.

**GENERAL COMMITTEE OF ADJUSTMENT
OF THE BROTHERHOOD OF LOCOMO-
TIVE ENGINEERS FOR THE PACIFIC
LINES OF SOUTHERN PACIFIC COM-
PANY, an unincorporated association,**
Appellant,

vs.

**SOUTHERN PACIFIC COMPANY, a corpora-
tion, and GENERAL GRIEVANCE COM-
MITTEE OF THE BROTHERHOOD OF
LOCOMOTIVE FIREMEN AND ENGINE-
MEN, an unincorporated association,**
Appellees.

Transcript of Record

In Two Volumes

VOLUME II

Pages 489 to 787

**Upon Appeal from the District Court of the United
States for the Northern District of California,
Southern Division.**

(Plaintiff's Exhibit No. 2 continued)

Sec. 5. In assigned passenger service, on a trip of over 100 miles, where two or more train numbers are used on one trip, firemen or helpers will be paid overtime on the basis of the combined schedule plus the dead time shown on time table where train numbers change, provided that not more than 45 minutes dead time at point where train numbers change shall be added to the combined schedules of the trains. When the dead time at any point where train numbers change is in excess of five hours, terminal provisions will prevail and firemen or helpers will be considered as beginning a new trip.

Sec. 6. When from any cause the time of a passenger train on the road exceeds its basis for computing overtime, the fireman or helper shall be paid overtime at the rate of $12\frac{1}{2}$ miles per hour.

ARTICLE 6.

Initial, Final and Turning Point Switching

When firemen or helpers in passenger service are required to do initial or terminal switching, or switching at the turning point of an irregular turnaround trip, they shall be paid one-eighth of the daily rate per hour. Such time to be computed separately and paid for in addition to road time.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 7.

Initial and Final Terminal Delays.

Sec. 1. In passenger service, over 100 miles, when firemen or helpers are held at initial station, they shall be paid one-eighth of the daily rate per hour. Initial delays to be computed from time fireman or helper is ordered to leave and to end with departure of train.

Sec. 2. In passenger service, final terminal delay shall be computed from the time train reaches the terminal station.

Sec. 3. Final terminal delay, after the lapse of thirty minutes will be paid for the full delay at the end of the trip, at the overtime rate, according to the class of locomotive, on the minute basis.

Sec. 4. If road overtime has commenced, terminal overtime shall not apply, and road overtime will be paid to the point of final relief.

Sec. 5. The mileage from designated track where locomotive is received, to point at which road mileage begins, where one mile or more, will be paid for in addition to the allowed road mileage of the trip.

Sec. 6. When final terminal delay does not accrue, or road overtime is not made, actual mileage, where one mile or more, will be allowed from passenger station to point of release and paid for in addition to the allowed road mileage of the trip.

(Plaintiff's Exhibit No. 2 continued)

Note: In the application of Sections 5 and 6 of this Article, initial and final terminal miles, when payable, will be allowed separately from road trip miles. The following examples are illustrative:

EXAMPLES.

SHORT TURNAROUND PASSENGER SERVICE.

No. 1—Fireman brought on duty A	6:40 A. M.
Mileage roundhouse to depot	1.5
Departs A	7:10 A. M.
Arrives B	8:20 A. M.
Mileage depot to roundhouse	1.3
Off duty at roundhouse	8:30 A. M.
Mileage roundhouse to depot	1.3
Arrives A	5:55 P. M.
Mileage depot to roundhouse	1.5
Relieved from duty and final tie-up	6:15 P. M.
Timetable mileage of trip	94

Overtime paid under 8-within-10 hour short turn-around rule after 10 hours.

Allowance: 100 miles, 1 hour 35 minutes overtime at pro rata rates, and 3 roundhouse miles covering movements of engine to and from roundhouse at B.

No. 2—Fireman brought on duty A	5:00 A. M.
Mileage roundhouse to depot	1.5
Departs A	5:30 A. M.
Arrives B	7:30 A. M.
Mileage depot to roundhouse	1.3
Released	7:40 A. M.
Resumes Duty B	8:30 A. M.
Mileage roundhouse to depot	1.3
Arrives A	11:00 A. M.
Mileage from depot to roundhouse	1.5

(Plaintiff's Exhibit No. 2 continued)

Released from duty and final tie-up..... 11:20 A. M.
 Timetable mileage of trip..... 80
 Compensated under 8-within-10 hour short turnaround
 rule.

Allowance: 100 miles and 6 roundhouse miles.

No. 3—Fireman brought on duty A..... 7:00 A. M.
 Mileage roundhouse to depot..... 1.5
 Departs A..... 7:30 A. M.
 Arrives B..... 12:05 P. M.
 Mileage depot to roundhouse..... 1.3
 Off duty at roundhouse..... 12:20 P. M.
 Resumes duty B..... 1:10 P. M.
 Mileage roundhouse to depot..... 1.3
 Arrives A..... 5:05 P. M.
 Mileage depot to roundhouse..... 1.5
 Relieved from duty and final tie-up..... 5:30 P. M.
 Timetable mileage of trip..... 94
 Overtime paid under 8-within-10 hour short turnaround
 rule after 8 hours.

Allowance: 100 miles, 2 hours 30 minutes overtime at
 pro rata rates, and 3 roundhouse miles
 at B.

STRAIGHTAWAY PASSENGER SERVICE

No. 4—Fireman brought on duty A..... 6:00 A. M.
 Mileage roundhouse to depot..... 2.6
 Departs A..... 6:30 A. M.
 Arrives B..... 1:00 P. M.
 Mileage depot to roundhouse..... 2.2
 Relieved from duty and final tie-up..... 1:15 P. M.
 Timetable mileage of trip..... 250
 Timetable schedule of train..... 7 Hours

Allowance: 250 miles, 5 roundhouse miles.

(Plaintiff's Exhibit No. 2 continued)

No. 5—Fireman brought on duty A.....	6:00 A. M.
Mileage roundhouse to depot.....	3.2
Departs A.....	6:30 A. M.
Arrives B.....	1:00 P. M.
Mileage depot to roundhouse.....	1.5
Relieved from duty and final tie-up.....	1:40 P. M.
Timetable mileage of trip.....	250
Timetable schedule of train.....	7 Hours

Allowance: 250 miles, 3 initial roundhouse miles and 40 minutes terminal delay at pro rata rates.

No. 6—Fireman brought on duty A.....	7:00 A. M.
Mileage roundhouse to depot.....	3.2
Departs A.....	7:30 A. M.
Arrives B.....	11:30 A. M.
Mileage depot to roundhouse.....	1.5
Relieved from duty and final tie-up.....	11:50 A. M.
Timetable mileage of trip.....	94

Allowance: 100 miles and 5 roundhouse miles.

No. 7—Fireman brought on duty A.....	7:00 A. M.
Mileage roundhouse to depot.....	1.2
Departs A.....	7:30 A. M.
Arrives B.....	11:30 A. M.
Mileage depot to roundhouse.....	1.5
Relieved from duty and final tie-up.....	12:05 P. M.
Timetable mileage of trip.....	94

Allowance: 100 miles, 1 initial roundhouse mile and 35 minutes terminal delay at pro rata rates.

ARTICLE 8.

Mixed Service.

Sec. 1. When four or more freight cars, either loaded or empty, or when four or more baggage cars or express refrigerators containing freight

(Plaintiff's Exhibit No. 2 continued)

under freight billing, are handled in conjunction with overland passenger service, or when two or more freight cars, either loaded or empty, or when two or more baggage cars or express refrigerators containing freight under freight billing, are handled in conjunction with branch or local passenger service, firemen and helpers shall be paid full freight rates for the entire trip.

Sec. 2. When one or more freight cars, either loaded or empty, or when one or more baggage cars or express refrigerators containing freight under freight billing, are handled, picking up or setting out cars en route, in conjunction with branch or local passenger service, firemen and helpers shall be paid full freight rates for the entire trip; except on dates on which freight is loaded or unloaded or transferred to and from car en route, firemen and helpers shall be paid local freight rates for the entire trip.

ARTICLE 9.

Officers' Specials.

Firemen or helpers handling Southern Pacific Officers' Specials, annual inspection trains, examination car, circus or carnival trains, valuation specials, motion picture trains or test trains, may be tied up at other than established district or division terminals, and time so tied up deducted, provided a minimum of 150 miles, including over-

(Plaintiff's Exhibit No. 2 continued)

time at road rates, will be allowed for each day engaged in or held for such service and not tied up at terminals. It is understood that delays of less than eight hours at any point other than terminals will not be considered as being tied up, and time so delayed will not be deducted in computing time for road trip of that day. Where trip in such service is made from terminal to terminal, this rule does not apply.

Firemen or helpers en route to point where such service begins, or are returning to their assigned territory after being relieved from such service, will be paid under this rule.

Test trains as referred to in this Article will be classified as follows:

1. Testing.....Air Brakes.
2. Testing.....Capacity of Locomotives.
3. Testing.....Automatic Train Control.
4. Testing.....Automatic Block Signals.

1st. Switching and spotting of circus train equipment and overtime of road trip will be included in arriving at minimum of 150 miles, except at terminals where yard crews are on duty, firemen will receive initial and terminal switching if required to perform switching and spotting of circus at such point.

2nd. If crew runs, for example, twenty miles, picks up circus train, or vice versa, such light movement will be included in regular circus train day.

(Plaintiff's Exhibit No. 2 continued)

3rd. Crews handling circus trains will not be run through established division terminals when other crews are available. If run through, they will start a new day.

4th. Crews handling circus trains will be paid through freight rates according to class of engine and district on which used, and pooled firemen will be used when available when run over districts to which pooled crews are assigned.

ARTICLE 10.

Doubling on Grades.

When firemen or helpers in passenger service are required to double on grades, or run for fuel or water, ten miles will be allowed. In case the mileage exceeds ten miles the actual mileage shall be allowed. On runs over 100 miles, actual time consumed in doubling to be added to the schedule of the train in computing overtime.

ARTICLE 11.

Mountain Districts—Excess Mileage.

Between the following named points mileage in excess of actual distance between such points shall be allowed, viz:

	Actual Mileage	Allowed Mileage
Passenger Service Between:		
Roseville to Truckee.....	99	107
Truckee to Roseville.....	101	109
Bakersfield and Mojave.....	68	75
Red Bluff and Dunsmuir.....	99	105
Gerber and Dunsmuir.....	109	115
Bakersfield and Los Angeles.....	170	175

(Plaintiff's Exhibit No. 2 continued)

	Actual Mileage	Allowed Mileage
Freight Service Between:		
Los Angeles and Mojave.....	100	105
Mojave and Bakersfield.....	68	75
Sacramento to Truckee.....	118	150
Truckee to Sacramento.....	120	152
Roseville to Truckee.....	99	119
Truckee to Roseville.....	101	121
Roseville and Summit.....	87	104
Roseville to Norden.....	85	102
Norden to Roseville.....	86	103
Colfax and Summit.....	51	61
Colfax and Norden.....	50	60
Colfax to Truckee.....	64	77
Truckee to Colfax.....	65	78
Red Bluff and Dunsmuir.....	99	138
Gerber and Dunsmuir.....	109	148
Dunsmuir and Ashland.....	108	139
Dunsmuir and Hornbrook.....	72	101
Hornbrook and Ashland.....	36	50
Ashland and Roseburg.....	143½	144½

Allowed mileage stated as per this Section will not be allowed on runs not covering the entire distance between points named.

Question 46, Interpretation No. 1, Supplement No. 24:

Are schedule rules providing that constructive mileage be allowed on certain divisions, or portions of divisions, affected?

Decision: No.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 12.**Trip Rate for Different Services and on
Locomotives of Different Weights.**

Sec. 1. Road firemen or helpers performing more than one class of road service in a day or trip will be paid for the entire service at the highest rate applicable to any class of service performed; except when used in freight or passenger service over part of trip and balance run light, will be paid on the same basis as the crew which is helped. The overtime basis for the rate paid will apply for the entire trip.

It is understood that under the above rule excess mileage shown in Article 11 will not be paid unless service covers the entire specified territory.

Sec. 2. When two or more locomotives of different weights on drivers are used during a trip or day's work, the highest rate applicable to any engine used will be paid for the entire day or trip.

ARTICLE 13.**Freight Service.**

Sec. 1. The minimum rate for firemen and helpers in through and irregular freight, pusher and helper, mine run or roustabout, belt line or transfer, work, wreck, construction, snow-plow, circus train, messenger, light engines, trains established for the exclusive purpose of handling milk, and all other unclassified service, shall be according to class of

(Plaintiff's Exhibit No. 2 continued)

locomotive and district, for eight hours or less, 100 miles or less, miles made in excess of 100 pro rata.

Note: It is understood that it is not obligatory to use firemen to perform messenger service. When firemen are used, they will be taken from pool freight list.

Note: It is understood that the terms "pusher" and "helper" are synonymous, meaning "helper service."

Question 31, Interpretation No. 1, Supplement No. 24:

Where mine run, belt line, or transfer service, pusher and helper service, etc., was formerly paid yard rates, and is by this Article paid the same rates as through freight service, is such service now subject to road conditions, such as terminal switching allowances, final terminal delays, etc.?

Decision: No; but through freight rules as to mileage and road overtime shall apply.

Question 36, Interpretation No. 1, Supplement No. 24:

Does this section place express trains, mail trains, etc., in unclassified service?

Decision: These trains are generally classed as passenger service, and the order does not change their former classification.

Sec. 2. On valley districts the minimum freight rate per day shall be:

(Plaintiff's Exhibit No. 2 continued)

Weight on Drivers	Coal	Oil	Helpers
Less than 80,000 lbs.	\$5.79	\$5.79	\$5.79
80,000 to 100,000 lbs.	5.87	5.79	5.79
100,000 to 140,000 lbs.	6.03	5.87	5.79
140,000 to 170,000 lbs.	6.19	6.03	5.79
170,000 to 200,000 lbs.	6.35	6.19	5.79
200,000 to 250,000 lbs.	6.52	6.52	5.95
250,000 to 300,000 lbs.	6.67	6.67	5.95
300,000 to 350,000 lbs.	6.92	6.92	5.95
350,000 lbs. and over	6.99	6.99	5.95

Mallet Type:

Less than 275,000 lbs.	6.99	6.99
275,000 lbs. and over	7.30	7.30

Articulated Consolidation:

400,000 to 450,000 lbs.	7.30
450,000 to 500,000 lbs.	7.30
500,000 to 550,000 lbs.	7.30

Note: On simple locomotives, cylinders 24 inches or over in diameter, the rate shall be \$6.58 when weight on drivers as tabulated in this Section does not establish a higher rate than \$6.58.

Oil differential not to apply on locomotives weighing over 215,000 lbs. on drivers.

Sec. 3. On lines east of Sparks the minimum freight rate per day shall be:

Weight on Drivers	Coal	Oil	Helpers
Less than 80,000 lbs.	\$5.95	\$5.79	\$5.79
80,000 to 100,000 lbs.	6.04	5.91	5.91
100,000 to 140,000 lbs.	6.19	6.03	5.95
140,000 to 170,000 lbs.	6.27	6.12	5.88
170,000 to 200,000 lbs.	6.35	6.19	5.79
200,000 to 250,000 lbs.	6.52	6.52	5.95
250,000 to 300,000 lbs.	6.67	6.67	5.95
300,000 to 350,000 lbs.	6.92	6.92	5.95
350,000 lbs. and over	6.99	6.99	5.95

(Plaintiff's Exhibit No. 2 continued)

Mallet Type:

Less than 275,000 lbs.	6.99	6.99
275,000 lbs. and over	7.30	7.30

Articulated Consolidation:

400,000 to 450,000 lbs.	7.30
450,000 to 500,000 lbs.	7.30
500,000 to 550,000 lbs.	7.30

Note: On simple locomotives, cylinders 24 inches or over in diameter, the rate shall be \$6.58 when weight on drivers as tabulated in this Section does not establish a higher rate than \$6.58.

Oil differential not to apply on locomotives weighing over 215,000 lbs. on drivers.

Sec. 4. Between Phoenix and Hassayampa, Phoenix and Maricopa, Phoenix and Christmas, Phoenix and Casaba, the minimum freight rate per day shall be:

Weight on Drivers	Firemen		Helpers	
	Through	Local	Through	Local
Less than 80,000 lbs.	\$6.25	\$6.25	\$6.25	\$6.25
80,000 to 100,000 lbs.	6.25	6.27	6.25	6.27
100,000 to 140,000 lbs.	6.25	6.43	6.17	6.35
140,000 to 170,000 lbs.	6.25	6.59	6.01	6.35
170,000 to 200,000 lbs.	6.35	6.75	5.95	6.35
200,000 to 250,000 lbs.	6.52	6.92	5.95	6.35
250,000 to 300,000 lbs.	6.67	7.07	5.95	6.35
300,000 to 350,000 lbs.	6.92	7.32	5.95	6.35
350,000 lbs. and over	6.99	7.39	5.95	6.35

Mallet Type:

Less than 275,000 lbs.	6.90	7.39
275,000 lbs. and over	7.30	7.70

Articulated Consolidation:

400,000 to 450,000 lbs.	\$7.30	\$7.70
450,000 to 500,000 lbs.	7.30	7.70
500,000 to 550,000 lbs.	7.30	7.70

(Plaintiff's Exhibit No. 2 continued)

Note: On simple locomotives, cylinders 24 inches or over in diameter, the rate shall be \$6.58 when weight on drivers as tabulated in this Section does not establish a higher rate than \$6.58.

Sec. 5. Between Bowie and Miami, the minimum freight rate per day shall be:

Weight on Drivers	Firemen		Helpers	
	Through	Local	Through	Local
Less than 80,000 lbs.....	\$5.79	\$6.19	\$5.79	\$6.19
80,000 to 100,000 lbs.....	5.79	6.19	5.79	6.19
100,000 to 140,000 lbs.....	6.03	6.43	5.95	6.35
140,000 to 170,000 lbs.....	6.19	6.59	5.95	6.35
170,000 to 200,000 lbs.....	6.35	6.75	5.95	6.35
200,000 to 250,000 lbs.....	6.52	6.92	5.95	6.35
250,000 to 300,000 lbs.....	6.67	7.07	5.95	6.35
300,000 to 350,000 lbs.....	6.92	7.32	5.95	6.35
350,000 lbs. and over.....	6.99	7.39	5.95	6.35

Mallet Type:

Less than 275,000 lbs.....	6.99	7.39
275,000 lbs. and over.....	7.30	7.70

Articulated Consolidation:

400,000 to 450,000 lbs.....	7.30	7.70
450,000 to 500,000 lbs.....	7.30	7.70
500,000 to 550,000 lbs.....	7.30	7.70

Note: On simple locomotives, cylinders 24 inches or over in diameter, the rate shall be \$6.58 when weight on drivers as tabulated in this Section does not establish a higher rate than \$6.58.

Sec. 6. On trips 100 miles or less between Bakersfield and Los Angeles, Mojave and Owenyo, Sacramento and Sparks, Gerber and Ashland, Dunsmuir and Klamath Falls, Klamath Falls and Wendel, including Lakeview Branch, Ashland and Roseburg,

(Plaintiff's Exhibit No. 2 continued)

Eugene and Klamath Falls, Los Angeles and Indio, including branches between Los Angeles and Indio, (mountain districts), the minimum freight rate per day shall be:

Weight on Drivers	Coal	Oil	Helpers
Less than 80,000 lbs.....	\$6.27	\$6.28	\$6.28
80,000 to 100,000 lbs.....	6.22	6.28	6.28
100,000 to 140,000 lbs.....	6.39	6.23	6.15
140,000 to 170,000 lbs.....	6.56	6.41	6.17
170,000 to 200,000 lbs.....	6.73	6.57	6.17
200,000 to 250,000 lbs.....	6.89	6.89	6.32
250,000 to 300,000 lbs.....	7.05	7.05	6.33
300,000 to 350,000 lbs.....	7.30	7.30	6.33
350,000 lbs. and over.....	7.37	7.37	6.33

Mallet Type:

Less than 275,000 lbs.....	6.99	6.99
275,000 lbs. and over.....	7.30	7.30

Articulated Consolidation:

400,000 to 450,000 lbs.....	7.45
450,000 to 500,000 lbs.....	7.62
500,000 to 550,000 lbs.....	7.80

Between Roseville and Truckee:

Weight on Drivers	Coal	Oil	Helpers
140,000 to 170,000 lbs.....	\$7.03	\$7.08	\$6.84
170,000 to 200,000 lbs.....	7.20	7.24	6.84
200,000 to 250,000 lbs.....	7.50	7.70	7.13
250,000 to 300,000 lbs.....	7.52	7.58	6.86
300,000 to 350,000 lbs.....	7.77	7.97	7.00
350,000 lbs. and over.....	7.84	8.04	7.00

Articulated Consolidation:

400,000 to 450,000 lbs.....	8.04
450,000 to 500,000 lbs.....	8.04
500,000 to 550,000 lbs.....	8.04

(Plaintiff's Exhibit No. 2 continued)

Note: On simple locomotives, cylinders 24 inches or over in diameter, the rate shall be \$6.58 when weight on drivers as tabulated in this Section does not establish a higher rate than \$6.58.

Rates named between Roseville and Truckee not to apply when crews are cut out at Blue Canon.

Oil differential not to apply on locomotives weighing over 215,000 lbs. on drivers.

Sec. 7. On trips over 100 miles between Bakersfield and Los Angeles, Mojave and Owenyo, Sacramento and Sparks, Gerber and Ashland, Dunsmuir and Klamath Falls, Klamath Falls and Wendel, including Lakeview Branch, Ashland and Roseburg, Eugene and Klamath Falls, Los Angeles and Indio, including branches between Los Angeles and Indio, (mountain districts), the minimum freight rate per day shall be:

Weight on Drivers	Coal	Oil	Helpers
Less than 80,000 lbs.	\$6.60	\$6.62	\$6.62
80,000 to 100,000 lbs.	6.54	6.48	6.48
100,000 to 140,000 lbs.	6.73	6.56	6.48
140,000 to 170,000 lbs.	6.90	6.75	6.51
170,000 to 200,000 lbs.	7.06	6.90	6.50
200,000 to 250,000 lbs.	7.23	7.23	6.66
250,000 to 300,000 lbs.	7.38	7.38	6.66
300,000 to 350,000 lbs.	7.63	7.63	6.66
350,000 lbs. and over	7.70	7.70	6.66

Articulated Consolidation:

400,000 to 450,000 lbs.	7.70
450,000 to 500,000 lbs.	7.80
500,000 to 550,000 lbs.	7.98

(Plaintiff's Exhibit No. 2 continued)

Between Roseville and Truckee:

Weight on Drivers	Coal	Oil	Helpers
140,000 to 170,000 lbs.	\$7.37	\$7.42	\$7.18
170,000 to 200,000 lbs.	7.53	7.57	7.17
200,000 to 250,000 lbs.	7.83	8.03	7.46
250,000 to 300,000 lbs.	7.85	8.05	7.33
300,000 to 350,000 lbs.	8.10	8.30	7.33
350,000 lbs. and over	8.17	8.37	7.33

Mallet Type:

Less than 275,000 lbs.	6.99	6.99
275,000 lbs. and over	7.30	7.30

Articulated Consolidation:

400,000 to 450,000 lbs.	8.37
450,000 to 500,000 lbs.	8.37
500,000 to 550,000 lbs.	8.37

Note: On simple locomotives, cylinders 24 inches or over in diameter, the rate shall be \$6.58 when weight on drivers as tabulated in this Section does not establish a higher rate than \$6.58.

Note: Firemen operating eastbound Roseville to Truckee will be allowed rates tabulated in this Section applicable to runs of over 100 miles between Roseville and Truckee.

Rates named between Roseville and Truckee not to apply when crews are cut out at Blue Canon.

Oil differential not to apply on locomotives weighing over 215,000 lbs. on drivers.

If a type of locomotive is introduced on a railroad which formerly was not in use on that railroad, and the rates herein provided are less than those in effect on other roads in the territory, the rates of the other roads shall be applied.

(Plaintiff's Exhibit No. 2 continued)

Question 30, Interpretation No. 1, Supplement No. 24:

Schedules of certain railroads provide differentials for divisions or portions thereof, or mountain or desert territory as compared with valley territory. Are such differentials preserved? If so, by what method?

Decision: Such differentials are preserved. Former methods of establishing them are required to be continued. Where expressed in specified amounts of money as compared with valley rates, the same amount of money differential shall be continued.

ARTICLE 14.

Assigned Turnaround Freight Service.

Sec. 1. Firemen or helpers assigned to a series of branch freight, combination freight and passenger, or mixed runs, or established main line turnaround local freight service, will compute their time as a single trip. Bulletin shall specify number of trips, name terminals and turning points and will definitely specify kind of service to be performed. In no case shall any portion of the assignment include trip or trips in helper service.

Note: Last sentence agreed to with the understanding that this will not set aside or supersede decisions wherein crews were used to push trains out of yard within yard limits.

Sec. 2. Continuous time to be allowed from time fireman is required to report for duty on initial

(Plaintiff's Exhibit No. 2 continued)

trip and to end upon completion of final trip of assignment with a minimum of 100 miles. On runs of 100 miles or less, overtime will begin at the expiration of eight hours; on runs of over 100 miles, overtime will begin when the time on duty exceeds the miles run divided by $12\frac{1}{2}$. Overtime shall be paid for on the minute basis at an hourly rate of $\frac{3}{16}$ of the daily rate according to class of engine or other power used. When miles run exceed these limits, actual miles will be allowed.

Question: Assignment under this Section, A to B and return, distance 90 miles round trip; thence in opposite direction A to C and return, distance 59 miles; total mileage of assignment 149 miles. On a certain date crew consumes 11 hours 45 minutes making trip A to B and return, and are released without making trip A to C and return. How should they be compensated?

Decision: Allow 149 miles, mileage of assignment, and overtime, if any, after schedule of 11 hours and 55 minutes.

Sec. 3. Firemen or helpers assigned under this rule who are required to perform work not a part of regular assignment, such as pulling trains into terminal account crew of which tied up under law, engine failure, or account shortage of fuel or water in locomotive, will be paid a minimum of 100 miles for each time so used in addition to assignment; in like manner, when firemen or helpers en route are taken off assignment and required to bring engine

(Plaintiff's Exhibit No. 2 continued)

or train to terminal, crew of which tied up under law, or account engine failure, or shortage of fuel or water in locomotive, will be paid a minimum of 100 miles for each time so used in addition to assignment. If used en route to make side trip off assigned territory and such trip covers a distance of more than twelve miles in one direction, a minimum of 100 miles will be allowed in addition to assignment. In each case rates and rules covering such service will govern. Actual time in other service to be excluded in computing overtime in assigned service. Under the above conditions, crew used to bring disabled train to terminal will compute time as a single trip from time of leaving assignment until return thereto with a minimum of 100 miles.

Note: In cases where main track is obstructed due to derailments, engine failure, break-in-tuos, and traffic is threatened with serious delay and assigned crews under this Article are used to assist in relieving obstruction, questions of runarounds will be disposed of on their merits between representatives of the Company and firemen.

Sec. 4. Switching before beginning of first trip and after the completion of final trip will be computed separately and paid for at one-eighth of the daily rate applying to class of engine, service and district on the minute basis, irrespective of time on road. Switching time to be continuous from the time work is begun until it is completed and train coupled together. This time not to be counted in computing

(Plaintiff's Exhibit No. 2 continued)

road overtime; except that when the number of hours switching is not equal in money value to the sum of the money values of switching hours and road overtime hours; switching time shall not be paid for and the road overtime shall be calculated and paid for the same as if switching had not occurred.

Example—

Required to report at A.....	7:00 A. M.
Switches at A until.....	9:00 A. M.
Runs A to B, return A,	
distance 100 miles.....	3:00 P. M.
Switches at A until.....	5:00 P. M.
Relieved A	5:00 P. M.

Compensation: 100 miles, plus 4 hours switching at one-eighth of daily rate. Such allowance being greater than two hours overtime at time and one-half.

Example—

Required to report at A.....	7:00 A. M.
Switches at A until.....	8:00 A. M.
Runs A to B, return A.....	4:00 P. M.
Switches at A until.....	5:00 P. M.
Relieved A	5:00 P. M.

Compensation: 100 miles, plus 2 hours overtime at three-sixteenths of the daily rate per hour. In this case the money value of the road overtime at three-sixteenths of the daily rate exceeds the allow-

(Plaintiff's Exhibit No. 2 continued)

ance of two hours switching at one-eighth of the daily rate.

Note: Section 6 of Article 17 and examples thereunder shall apply to this Article.

Sec. 5. Assignments of firemen to three-legged trips with alternating layovers shall be made under Section 1, and compensation shall be under Sections 2, 3 and 4 of this Article.

ARTICLE 15.

Local or Way Freight.

Sec. 1. Except as provided in local rates tabulated in Sections 4 and 5 of Article 13, a minimum of forty cents per hundred miles, or less, will be added for local freight service to through rates for firemen or helpers, according to class of locomotive and district. Miles over one hundred to be paid for pro rata.

Sec. 2. In addition to assigned local freight trains, firemen handling freight or mixed trains on which 5,000 pounds or over L. C. L. freight is loaded or unloaded per trip, when required to pick up or set out car or cars at more than four stations en route between the terminals of their run (this not to include setting out disabled cars; picking up or setting out water cars for train engine use only), or who perform industrial or station switching between terminals, will be paid local freight rates.

Movements made in connection with loading or unloading, picking up or setting out cars for stock to be loaded or unloaded, or setting out and spotting

(Plaintiff's Exhibit No. 2 continued)

cars from own train and picking up cars into own train, and the spotting of cars disturbed as result of either of the above movements, is not industrial or station switching as mentioned in this Section.

Sec. 3. Where, under schedule rules or accepted practices, a part of the crew receives local freight rates, the firemen or helper will receive not less than the local freight rates.

On districts where there is no local freight differential applying to conductors or trainmen, and a fireman in through freight service is required to perform switching at stations en route that would entitle train crew to local freight rates, were there a local freight differential, firemen will be allowed local freight rates.

ARTICLE 16.

Basis for Overtime and When Paid.

Sec. 1. In all classes of service covered by Article 13, 100 miles or less, eight hours or less (straightaway or turnaround), shall constitute a day's work; miles in excess of 100 will be paid for at the mileage rates provided, according to district, class of engine or other power used.

Question 47, Interpretation No. 1, Supplement No. 24:

Certain railroads formerly paid 100 miles between terminals, notwithstanding the distance may have been less than 100 miles. Does this Article permit operating turnarounds turning at terminal on continuous time and mileage?

(Plaintiff's Exhibit No. 2 continued)

Decision: No. Schedule rules and accepted practices will govern.

Sec. 2. On runs of 100 miles or less, overtime will begin at the expiration of eight hours; on runs of over 100 miles, overtime will begin when the time on duty exceeds the miles run divided by $12\frac{1}{2}$. Overtime shall be paid for on the minute basis, at an hourly rate of three-sixteenths of the daily rate, according to district, class of engine or other power used.

ARTICLE 17.

Initial and Final Terminal Switching Freight Service.

Sec. 1. Firemen in freight service making a trip between terminals required to do initial or terminal switching shall be paid for all time so consumed at one-eighth of the daily rate per hour, applying to class of engine, service and district on the minute basis; such time to be computed separately from road overtime and paid for irrespective of time consumed on the road. This time not to be counted in computing road overtime; except that when the number of hours switching is not equal in money value to the sum of the money values of switching hours and road overtime hours, switching time shall not be paid for and the road overtime shall be calculated and paid for the same as if switching had not occurred.

Sec. 2. In calculating the time engaged in switching, time will be continuous from time work is begun until it is completed and train coupled together.

(Plaintiff's Exhibit No. 2 continued)

except in cases where train is made up on two tracks and not coupled together account insufficient track room to clear other trains, the time between the time switching is completed and train is coupled together will not be calculated as initial switching. If on arrival at terminal crew is required to double portion of their train onto another track time so consumed is not terminal switching. If required to make more than one double, time consumed doubling will be calculated as terminal switching.

Sec. 3. Firemen, after arrival at final terminal, inducted into terminal switching will be compensated under terminal switching rules of agreement from time terminal switching commenced until engine is placed on designated relieving track or fireman is relieved at terminal.

Sec. 4. Firemen required to perform six hours or more initial switching will be allowed 30 minutes to eat at the initial terminal, computed as part of the initial switching time. In cases where on arrival terminal fireman has been on duty six hours without eating and there in in excess of one hour terminal switching to be performed he will be allowed 30 minutes to eat computed as part of the terminal switching time.

Sec. 5. When road firemen entitled under agreement provisions to initial and terminal switching are required, before departing initial terminal or after arrival at final terminal of run, to spot cars of gravel or other maintenance of way material for loading or unloading, in connection with other ter-

(Plaintiff's Exhibit No. 2 continued)

terminal switching, such service will be compensated for under initial and terminal switching rules of agreement.

Note: When there is sufficient work on any certain date to consume the time of a crew to perform a combination of yard service and maintenance of way work a crew will be called for this purpose.

Sec. 6. If a fireman or helper is not on overtime on arrival at the final terminal, but the overtime period commences before final release, terminal switching accruing up to the period when overtime commences will be allowed at one-eighth of the daily rate, but time thereafter shall be paid on the actual minute basis at three-sixteenths of the daily rate.

Examples.

No. 1—Required to report at A	7:00 A. M.
Switches at A until	7:30 A. M.
Leaves A	7:30 A. M.
Runs A to B, a distance of less than 100 miles	
Arrives at B	1:30 P. M.
Switches at B until	2:00 P. M.
Relieved at B	2:00 P. M.

Compensation: 100 miles, plus 30 minutes initial switching and 30 minutes terminal switching at one-eighth of the daily rate.

No. 2—Required to report at A	7:00 A. M.
Switches at A until	9:00 A. M.
Leaves A at 9:00 A. M. and runs to B, 100 miles	
Relieved at B	4:00 P. M.

Compensation: 100 miles, plus 2 hours switching at one-eighth of the daily rate; such allowance being greater than one hour overtime at one and one-half time.

(Plaintiff's Exhibit No. 2 continued)

No. 3—Required to report at A	7:00 A. M.
Switches at A until	7:30 A. M.
Runs A to B, 100 miles	
Arrives at B	4:30 P. M.
Switches at B, 1 hour	
Relieved at B	5:30 P. M.

Compensation: 100 miles, plus 2 hours 30 minutes overtime at three-sixteenths of the daily rate.

Note: This on account of initial and terminal switching being absorbed by overtime.

No. 4—Required to report at A	7:00 A. M.
Switches at A until	7:45 A. M.
Runs A to B, 100 miles	
Arrives at B	3:45 P. M.
Switches at B, 45 minutes	
Relieved at B	4:30 P. M.

Compensation: 100 miles, plus 1 hour 30 minutes overtime at three-sixteenths of the daily rate.

Note: This on account of initial and terminal switching being absorbed by overtime.

No. 5—Required to report at A	7:00 A. M.
Switches at A until	7:30 A. M.
Runs A to B, 100 miles	
Arrives at B	3:00 P. M.
Relieved at B	3:10 P. M.

Compensation: 100 miles, plus 30 minutes initial switching at pro rata hourly rate and not at time and one-half.

No. 6—Required to report at A	7:00 A. M.
Delayed at A	7:20 A. M.
Runs A to B, 100 miles	
Arrives at B	2:50 P. M.
Switches at B, 10 minutes	
Relieved at B	3:00 P. M.

Compensation: 100 miles and 10 minutes terminal switching at pro rata hourly rate and not at time and one-half.

(Plaintiff's Exhibit No. 2 continued)

No. 7—On duty A	6:50 A. M.
Switched A	7:00 A. M. to 9:00 A. M.
Departed A	9:10 A. M.
Runs A to B, 100 miles	
Arrived B	3:00 P. M.
Switched B	3:00 P. M. to 4:00 P. M.
Relieved B	4:10 P. M.

Compensation: 100 miles, 2 hours initial switching A at $\frac{1}{8}$ th of the daily rate, computed from 7:00 A. M. to 9:00 A. M.; 1 hour 10 minutes terminal switching B at $\frac{1}{8}$ th of the daily rate, computed from 3:00 P. M. to 4:10 P. M.

No. 8—On duty A	6:00 A. M.
Switched A	6:10 A. M. to 8:10 A. M.
Departed A	8:30 A. M.
Runs A to B, 100 miles	
Arrived B	3:00 P. M.
Switched B	3:00 P. M. to 5:00 P. M.
Relieved B	5:05 P. M.

Compensation: 100 miles, 2 hours initial switching A at $\frac{1}{8}$ th of the daily rate, computed from 6:10 A. M. to 8:10 A. M.; one hour at $\frac{1}{8}$ th of the daily rate, computed from 3:00 P. M. to 4:00 P. M.; and one hour, 5 minutes at $\frac{3}{16}$ ths of the daily rate, computed from 4:00 P. M. to 5:05 P. M., terminal switching at B.

Note: Under Example No. 8, payment for terminal switching at $\frac{3}{16}$ ths of the daily rate per hour begins at 4:00 PM due to the fact that road overtime accrues before switching is completed, terminal switching 3:00 P. M. to 4:00 P. M., being paid at $\frac{1}{8}$ th of the daily rate.

No. 9—On duty A	9:15 A. M.
Departed A	9:50 A. M.
No switching performed	
Runs A to B, 100 miles	
Arrived B	3:15 P. M.
Switched B (4 hrs., 20 min.)	3:25 P. M. to 7:45 P. M.
Relieved B	7:45 P. M.

(Plaintiff's Exhibit No. 2 continued)

Compensation: 100 miles, 1 hour 50 minutes final terminal switching at $\frac{1}{8}$ th of the daily rate from 3:25 P. M. to 5:15 P. M.; 2 hours 30 minutes final terminal switching at $\frac{3}{16}$ ths of the daily rate from 5:15 P. M. to 7:45 P. M.

No. 10—On duty A	7:00 A. M.
Switches A	7:00 A. M. to 9:00 A. M.
Leaves A	9:00 A. M.
Runs A to B, 100 miles	
Relieved B	4:20 P. M.

Compensation: Either 100 miles plus 2 hours switching at $\frac{1}{8}$ th of the daily rate, or 100 miles and 1 hour 20 minutes road overtime at $\frac{3}{16}$ ths of the daily rate per hour, because the money value of the switching allowance and the money value of the road overtime at $\frac{3}{16}$ ths of the daily rate are equal.

No. 11—On duty A	7:00 A. M.
Switches A	7:00 A. M. to 9:00 A. M.
Leaves A	9:00 A. M.
Runs A to B, 100 miles	
Relieved B	5:00 P. M.

Compensation: 100 miles plus 2 hours overtime at $\frac{3}{16}$ ths of the daily rate per hour. In this case the money value of the road overtime at $\frac{3}{16}$ ths of the daily rate exceeds the allowance of 2 hours switching at $\frac{1}{8}$ th of the daily rate.

No. 12—On duty A	7:00 A. M.
Switches A	7:10 A. M. to 11:10 A. M.
Does not depart A	
Crew relieved A	11:20 A. M.

Compensation: 100 miles, 4 hours and 10 minutes initial switching.

In connection with above examples, it is understood as provided in Section 1 of Article 17, Firemen's Agreement, that when the number of hours

(Plaintiff's Exhibit No. 2 continued)

switching is not equal in money value to the sum of the money values of switching hours and road overtime hours, switching time shall not be paid for and the road overtime shall be calculated and paid for the same as if switching had not accrued.

ARTICLE 18.

Final Terminal Delay Freight Service.

Sec. 1. If road overtime has commenced, terminal overtime shall not apply and road overtime will be paid to the point of final release.

Sec. 2. For freight service, final terminal delay shall be computed from the time the engine reaches designated main track switch connection with the yard track.

Sec. 3. If road overtime has not commenced, final terminal delay after the lapse of thirty minutes will be paid for the full delay at the end of the trip.

Sec. 4. When fireman or helper reaches the final terminal before overtime commences, calculated from the time of reporting for duty, terminal delay will be allowed at one-eighth of the daily rate.

Sec. 5. If the fireman or helper is not on overtime on arrival at the final terminal, but the overtime period commences before final release, terminal delay accruing up to the period when overtime commences will be allowed at one-eighth of the daily rate, but time thereafter shall be paid on the actual

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minute basis at three-sixteenths of the daily rate.

Sec. 6. The mileage from designated track where locomotive is received, to point at which road mileage begins, where one mile or more, will be paid for in addition to the allowed road mileage of the trip.

Sec. 7. When final terminal delay does not accrue, or road overtime is not made, actual mileage, where one mile or more, will be allowed from designated switch to point of release and paid for in addition to the allowed road mileage of the trip.

Sec. 8. When freight train on arrival at final terminal of run is required to come to stop before reaching designated switch from which terminal delay is computed, on account of a preceding train standing between them and the designated switch, terminal delay will be computed from time train comes to stop behind the train that is blocking them.

Note: In the application of Sections 6 and 7 of this Article, initial and final terminal miles, when payable, will be allowed separately from road trip miles. The following examples are illustrative:

Examples:

No. 1—	Fireman brought on duty	8:00 A. M.
	Departs initial terminal	8:20 A. M.
	Arrives final terminal	5:00 P. M.
	Relieved final terminal	5:10 P. M.
	Mileage of trip	90
	Mileage roundhouse to yard,	
	initial terminal	2.1
	Mileage yard to roundhouse,	
	final terminal	2.1

(Plaintiff's Exhibit No. 2 continued)

Allowance: 100 road miles and 1 hour 10 minutes overtime at 3/16ths. No allowance for roundhouse miles, either initial or final terminal.

No. 2—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives final terminal	2:00 P. M.
Switches at B—50 minutes	2:00 P. M. to 2:50 P. M.
Relieved final terminal	3:00 P. M.
Mileage of trip	90
Mileage roundhouse to yard, initial terminal	1.4
Mileage yard to roundhouse, final terminal	2.1

Allowance: 100 road miles, 1 initial roundhouse mile and 1 hour switching. No final terminal roundhouse miles.

No. 3—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives main track designated switch, final terminal	3:00 P. M.
Relieved final terminal	3:45 P. M.
Mileage of trip	90.
Mileage roundhouse to yard, initial terminal	2.1
Mileage yard to roundhouse, final terminal	1.9

Allowance: 100 road miles, 45 minutes final terminal delay and 2 initial roundhouse miles. No final terminal roundhouse miles.

No. 4—Fireman brought on duty	9:20 P. M.
Departs initial terminal	10:55 P. M.
Arrives final terminal	4:55 A. M.
Relieved final terminal	5:35 A. M.
Mileage of trip	90
Mileage roundhouse to yard, initial terminal	7.16

(Plaintiff's Exhibit No. 2 continued)

Allowance: 100 road miles, 7 initial roundhouse miles, 25 minutes terminal delay at $\frac{1}{8}$ th of the daily rate and 15 minutes at $\frac{3}{16}$ ths of the daily rate.

No. 5—Fireman brought on duty 8:00 A. M.
 Departs initial terminal 8:20 A. M.
 Arrives final terminal 2:40 P. M.
 Relieved final terminal 2:50 P. M.
 Mileage of trip 75
 Mileage yard to roundhouse,
 final terminal 1.6

Allowance: 100 road miles and 2 roundhouse miles.

No. 6—Fireman brought on duty 8:00 A. M.
 Departs initial terminal 8:20 A. M.
 Arrives final terminal 2:40 P. M.
 Relieved final terminal 2:50 P. M.
 Mileage of trip 75
 Mileage yard to roundhouse,
 final terminal 2.1

Allowance: 100 road miles and 2 roundhouse miles.

No. 7—Fireman brought on duty 8:00 A. M.
 Departs initial terminal 8:20 A. M.
 Arrives final terminal 2:40 P. M.
 Released final terminal 2:50 P. M.
 Mileage of trip 75
 Mileage roundhouse to yard,
 initial terminal 1.2

Mileage yard to roundhouse,
 final terminal 1.2

Allowance: 100 road miles and 2 roundhouse miles.

No. 8—Fireman brought on duty 8:00 A. M.
 Departs initial terminal 8:20 A. M.
 Arrives final terminal 2:40 P. M.
 Released final terminal 2:50 P. M.

(Plaintiff's Exhibit No. 2 continued)

Mileage of trip	75
Mileage roundhouse to yard, initial terminal	1.2
Mileage yard to roundhouse, final terminal	1.3
Allowance: 100 road miles and 3 roundhouse miles.	
No. 9—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives final terminal	2:40 P. M.
Released final terminal	2:50 P. M.
Mileage of trip	75
Mileage roundhouse to yard, initial terminal	1.6
Mileage yard to roundhouse, final terminal	1.6
Allowance: 100 road miles and 3 roundhouse miles.	
No. 10—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives final terminal	6:00 P. M.
Relieved final terminal	6:20 P. M.
Mileage of trip	140
Mileage roundhouse to yard, initial terminal	1.3
Allowance: 140 road miles and 1 roundhouse mile.	
No. 11—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives final terminal	6:00 P. M.
Relieved final terminal	6:20 P. M.
Mileage of trip	140
Mileage yard to roundhouse, final terminal	2.1
Allowance: 140 road miles and 2 roundhouse miles.	

(Plaintiff's Exhibit No. 2 continued)

No. 12—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives final terminal	6:00 P. M.
Released final terminal	6:20 P. M.
Mileage of trip	140.
Mileage roundhouse to yard, initial terminal	1.2
Mileage yard to roundhouse, final terminal	1.2
Allowance: 140 road miles and 2 roundhouse miles.	

No. 13—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives final terminal	6:00 P. M.
Relieves final terminal	6:20 P. M.
Mileage of trip	140
Mileage roundhouse to yard, initial terminal	1.2
Mileage yard to roundhouse, final terminal	1.3
Allowance: 140 road miles and 3 roundhouse miles.	

No. 14—Fireman brought on duty	8:00 A. M.
Departs initial terminal	8:20 A. M.
Arrives final terminal	6:00 P. M.
Relieved final terminal	6:20 P. M.
Mileage of trip	140
Mileage roundhouse to yard, initial terminal	1.6
Mileage yard to roundhouse, final terminal	1.6
Allowance: 140 road miles and 3 roundhouse miles.	

Light Engines:

No. 15—Fireman on duty A	2:15 A. M.
Departs A	3:45 A. M.
Arrives B	5:40 A. M.

(Plaintiff's Exhibit No. 2 continued)

Departs B	6:00 A. M.
Arrives A	7:50 A. M.
Arrives relieving track A	8:10 A. M.
Mileage A to B and return	40
Mileage roundhouse to station, initial terminal	2.52
Mileage designated point to relieving track, final terminal	2.94
Allowance: 100 road miles and 5 terminal miles.	

Note: When overtime earned does not equal in money value the equivalent of roundhouse miles, roundhouse miles will be allowed.

ARTICLE 19.

Terminals.

Sec. 1. The points shown below constitute all division or district terminals at which engine crews are usually changed, as defined by Article 2:

El Paso	Tracy	Keeler
Lordsburg	San Francisco	Gerber
Nogales	Watsonville	Dunsmuir
Tucson	Junction	Ashland
Gila	San Luis Obispo	Klamath Falls
Phoenix	San Jose	Alturas
Yuma	(Western Div.)	Wendel
Globe	Oakland	Roseburg
Indio	Roseville	Crescent Lake
Los Angeles	Sparks	Eugene
Santa Barbara	Inlay	Portland
Owenyo (San Joaquin Div.)	Carlin	Tillamook
Bakersfield	Montello	Yaquina
Fresno	Ogden	Marshfield
	Mina	

Sec. 2. Should it become necessary at any time for operating or other reasons to discontinue or

(Plaintiff's Exhibit No. 2 continued)

create any main line terminals, change in terminals will be considered as a proper reason for advertising such runs as are affected for seniority choice of firemen and bulletins will be posted and assignments made as provided in Article 39. Other than main line terminals will not be established or maintained for pooled or extra men unless there is enough work for two or more crews between designated points.

ARTICLE 20.

Roustabout Service.

Sec. 1. Firemen assigned to perform switching, assembling and distributing cars, may be run in and out and through regular assigned terminals without regard for rules defining the completion of trips. Time to be computed continuously from the time required to report for duty until released at home or district terminal. Local freight rates will apply according to class of engine and district on which used. One hundred miles or less, eight hours or less, to constitute a day. Assignments will be confined to a radius of 100 miles, or if assignments should be in excess of 100 miles, overtime will be paid on basis of eight hours. Overtime shall be paid for on the minute basis at an hourly rate of three-sixteenths of the daily rate, according to class of engine or other power used.

Sec. 2. Assignments of firemen to this service will be made by bulletining vacancies or new runs

(Plaintiff's Exhibit No. 2 continued)

in accordance with rules in effect. Bulletin will designate one home terminal and time firemen will begin work.

Note: Firemen brought on duty in advance of the time specified in bulletin of assignment will be allowed a minimum of 100 miles for each time used, in addition to earnings of assignment. In each case rates and rules covering service performed will govern.

Sec. 3. Firemen required to go beyond limits of assignment will be allowed a minimum of 100 miles at the rate applying on the locomotive in the service and on the district where performed for each time so used. Time thus consumed to be excluded in computing overtime worked on regular assignment.

The above to apply to points listed below without prejudice to existing rules:

Coast Division—Santa Cruz, Salinas, Guadalupe, Lompoc.

Stockton Division—Merced, Modesto, Turlock, Lodi.

San Joaquin Division—Porterville, Oxnard.

Sacramento Division—Marysville.

Los Angeles Division—Brawley, El Centro, Calexico.

Western Division—Santa Rosa.

1. It is understood men will be guaranteed mileage of their assignments, but this does not change present basis of applying weekly guarantee.

2. It is further understood passenger service.

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helper service and work train service will not be included in roustabout assignments.

3. Following example will illustrate what is intended by language reading—"Fireman required to go beyond limits of assignment will be allowed a minimum of 100 miles":

Fireman, assigned to perform switching at Brawley and work between that point and Niland, including West Moreland Branch, home terminal Brawley, time to begin work 7 A. M., required to make trip Niland-Indio or go beyond Niland or Brawley in any class of service will begin a new day and will be paid under the rules governing class of service performed.

It is understood this example does not imply that crews may not be assigned to work both ways out of Brawley, but in every case the limits of assignments specified in bulletin will govern.

ARTICLE 21.

Temporary Terminals.

When track obstructions occur, such as snow blockades, slides, washouts, tunnel trouble, or similar conditions which make it impossible to maintain service from terminal to terminal, temporary terminals may be established by bulletin notice, specifying the points to be established as temporary terminals, runs and services affected, time effective to be

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at 12:01 A. M. of date following date of bulletin. If conditions are remedied and line opened within forty-eight hours from time bulletin becomes effective, bulletin will be considered void and firemen compensated same as if bulletin had not been issued. When temporary terminals are thus created, it is understood that agreement provisions applying to terminals shall apply at the temporary terminals.

ARTICLE 22.

Sixteen-Hour Tie-Up.

When firemen en route are used in work-train or snow-plow service on account of floods, washouts, snow storms, slides or other unusual conditions, or firemen en route are delayed by such conditions, time to be computed as follows:

Continuous time, less time tied up under the law, will be allowed for first 24 hours, computed from time required to report for duty. For first 16 hours of each subsequent 24-hour period delayed firemen will be allowed 200 miles. Should miles run exceed 200, or hours on duty exceed 16 in any 24-hour period, actual miles or hours will be allowed. If trip is resumed during first 16 hours of any 24-hour period held, time will be computed continuously from end of previous 24-hour period, provided, that if overtime accrues on the trip, that portion of the overtime due to starting pay at the expiration of any 24-hour period shall be paid for at the pro rata rate in order that time and one-half for overtime

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will not be so applied as to increase the rates paid for the time computed continuously from end of previous 24-hour period.

It is understood under this rule that the first 200 miles allowed on each 24-hour period will apply on the guarantee provided in Article 36.

ARTICLE 23.

Helper Service—Rates of Pay and Working Conditions.

Sec. 1. Firemen assigned to helper service exclusively will be allowed through freight rates as per class of locomotive and district as tabulated in Sections 2, 3, 4, 5, 6 and 7, respectively, of Article 13. One hundred miles will be allowed for the first eight consecutive hours, or less. If used on trip which departs from home or district terminal after the expiration of eight hours from time required to report for duty on initial call for service, firemen will begin a new helper day of eight consecutive hours, or less. On runs of 100 miles or less, overtime will begin at the expiration of eight hours; on runs of over 100 miles, overtime will begin when the time on duty exceeds the miles run divided by 12½. Overtime shall be paid for on the minute basis, at an hourly rate of three-sixteenths of the daily rate. When miles exceed hours, miles will be allowed.

Example 1: Crew called for certain time and after coming on duty and without being released time of departure is set back say two hours.

(Plaintiff's Exhibit No. 2 continued)

Answer: Time of trip should be computed from time reported for duty on first call.

Example 2: Assigned helper crew on duty, home terminal of helper assignment, 12:50 P. M.; performs helper service, arriving at district terminal 7:25 P. M.; later called to deadhead from district terminal to home terminal of helper assignment, departing district terminal deadhead 9:00 P. M. How should they be compensated?

Answer: Deadhead movement from district terminal starting after expiration of eight-hour helper day should be paid for under Article 31, Section 1, Firemen's Agreement, applying to deadhead service; however, if deadhead had begun before expiration of eight-hour period, same would have been paid as part of first eight-hour helper day under combination rule, Article 12, Section 1.

Example 3: Assigned helper fireman performs helper service and on returning to helper terminal tied up for rest prior to expiration of eight-hour helper day. How should he be compensated?

Answer: If such fireman is not needed for further service before expiration of eight-hour helper day, should be allowed a minimum day; however, if required for further service before expiration of first eight-hour helper day, and not available, account marking rest, should be paid only for actual time worked, miles or hours, whichever greater.

Question 35, Interpretation No. 1, Supplement No. 24:

(Plaintiff's Exhibit No. 2 continued)

Where crews are assigned exclusively to helping passenger trains and have been paid at passenger rates of pay, are freight rates to be paid under this Section?

Decision: Yes.

Section 2. Firemen assigned to helper service exclusively shall be called first-in first-out for initial service on each eight-hour helper day.

Sec. 3. Other firemen will not be called for helper service when firemen assigned to helper service exclusively are available.

Sec. 4. When a fireman assigned to helper service exclusively is off for any cause, the fireman standing first-out on the extra board, at the time call is made, shall be assigned and permitted to hold the vacancy for ten days unless relieved by regular fireman returning. After the expiration of ten days the older firemen on the seniority list, in their order of seniority, applying for the position, shall have preference for the run until the regular fireman returns. When fireman is assigned by bulletin to help passenger trains only, the vacancy will be filled in accordance with Section 8, Article 37. In all cases conditions and rates of pay of firemen assigned to helper service exclusively to apply.

Note: On seniority districts where special rule is agreed to between Local Committee of the Firemen and the Local Officials of the Company requiring firemen to remain on helper positions for a stipu-

(Plaintiff's Exhibit No. 2 continued)

lated period before being permitted to vacate same, special rules shall govern.

Sec. 5. Bulletins advertising vacancies in helper service, or the establishment of new stations at which firemen are to be assigned to helper service exclusively, shall designate the station at which they are to be assigned for service, and said station shall be known as their home station. Firemen assigned thereunder shall be paid continuous time from the time they are required to report for duty at their home station until returned thereto, unless tied up and relieved under the Hours of Service Law, or tied up and relieved at regular district terminals.

Sec. 6. Firemen assigned to helper service exclusively shall be allowed a minimum of 100 miles, at highest rate applicable to any engine used during last helper day, for each calendar day on which no service was begun. Firemen booking rest on any date on which no service was begun, and such rest covers a period beyond 10:30 P. M., this Section shall not apply.

Example: Engine crew called off extra board and deadheaded 8:30 A. M. to home terminal of helper assignment to fill a vacancy in helper service during life of bulletin. Arrived helper terminal 11:30 A. M. and placed on helper board. Performed no service that date. How should crew be compensated?

Answer: Should be paid for the deadhead service as per Article 34. If this compensation does not

(Plaintiff's Exhibit No. 2 continued)

equal minimum of 100 miles, as specified in Article 23, Section 6, the difference should be made up.

Sec. 7: Firemen assigned to helper service exclusively and used for any service other than assignment will be paid not less than 100 miles for each time so used, according to the rates and rules governing such service. Actual time in other service to be excluded in computing overtime in assigned service.

Explanatory: Under this paragraph, if a helper fireman is required to couple in and assist trains on account of road engines being disabled, such work will be included in his regular helper assignment. If an engine is broken down and has to be cut out of train, or in case trains tie up under law, assigned helper firemen used to handle such trains will be considered outside of regular helper work and a minimum of 100 miles will be allowed for such service.

Sec. 8. Assigned helper firemen who, through no fault of their own, are not called in regular turn, shall be allowed 50 miles at the rate applying on the locomotive on which they should have been used, and will stand first out. This not to apply if fireman is not available under the Hours of Service Law.

Example 1: Firemen assigned to helper service called at their helper terminal in their order, first-in first-out, for initial service on each eight-hour helper day, as follows:

(Plaintiff's Exhibit No. 2 continued)

Fireman "A"	9:00 A. M.
Fireman "B"	10:30 A. M.
Fireman "C"	1:10 P. M.

All three firemen make trips in helper service and return to helper terminal. Call is placed for helper fireman for 4:10 P. M., and Fireman "C" is used. Is Fireman "A" entitled to runaround account not being used on the 4:10 P. M. trip?

Decision: No, these firemen were called in turn for initial service on their eight-hour helper day, which had not expired.

Example 2: Firemen assigned to helper service called at helper terminal in their order, first-in first-out, for initial service on each eight-hour helper day, time of arrival as follows:

Fireman "A"—6:45 A. M.—on duty 1 hour 30 minutes.

Fireman "B"—7:05 A. M.—on duty 8 hours 20 minutes.

Call is placed for helper fireman for 11:15 P. M. and Fireman "B" is used. Is Fireman "A" entitled to runaround on account not being used on 11:15 P. M. trip?

Decision: Yes. These firemen were not called first-in first-out for initial service on each eight-hour helper day and, as call for 11:15 P. M. constituted initial service on an eight-hour helper day for both of these firemen, the fireman who had been

(Plaintiff's Exhibit No. 2 continued)

released first from previous service (Fireman "A") should have been used.

Sec. 9. Firemen assigned to helper service will be compensated for actual time consumed in initial or terminal switching, per Article 17. This does not apply where helper handles cars in cutting helper engine in or out of train, as this is a part of helper service.

It is further understood that helper firemen will not be used in switching service when road firemen are available.

Sec. 10. A fireman assigned to helper service exclusively, reporting for work after lay-off, will, upon reporting, be placed in the position on the board the man representing him holds, and the man representing him will be returned to the list from which taken. If the man representing the man who laid off is working on and has not completed an eight-hour helper day, the man who laid off and is reporting for work will take the position his representative holds at the completion of said eight-hour helper day, the representative being returned to the list from which taken.

Question: Regular helper fireman lays off; vacancy filled by extra man. On date regular fireman reports for work no service performed. Would regular fireman or extra fireman receive dead day?

Decision: Regular man when he reports not later than 10:30 P. M.; extra man when regular man reports later than 10:30 P. M.

(Plaintiff's Exhibit No. 2 continued)

Question: Fireman assigned to helper service, terminal outside point, with no extra list, lays off. Extra fireman sent out to fill vacancy. Regular man returns and in couple days another regular fireman lays off. Is it permissible to hold this same extra fireman to fill the next vacancy?

Decision: Yes, compensating him under Article 35.

ARTICLE 24.

Logging Service.

Sec. 1. Firemen assigned to logging service exclusively will be paid freight rates according to class of locomotive and district on which used; 100 miles or less, eight hours or less, to constitute a day; over 100 miles, pro rata; on runs of 100 miles or less, overtime will begin at the expiration of eight hours; on runs of over 100 miles, overtime will begin when the time on duty exceeds the miles run divided by $12\frac{1}{2}$. Overtime shall be paid for on the minute basis, at an hourly rate of three-sixteenths of the daily rate. Time to be computed continuously from the time required to report for duty until released at home or district terminal.

Sec. 2. Assignments of firemen to Logging Service exclusively will be made by bulletining vacancies or new runs in accordance with rules in effect. Firemen to be assigned to one home terminal and may be run in and out of said home terminal during a day's work in Logging Service, without regard for rules defining the completion of trips.

(Plaintiff's Exhibit No. 2 continued)

Sec. 3. Firemen assigned to Logging Service exclusively and used in other service will be allowed a minimum of 100 miles at the rate applying on the locomotive in the service and on the district where performed for each time so used. Time thus consumed to be excluded in computing overtime in Logging Service. Rules defining the completion of trip to govern for all service performed outside of the Logging Service assignments.

Sec. 4. Firemen assigned to Logging Service exclusively will be allowed 100 miles at the rate applying on the locomotive on which last used, for each calendar day of assignment on which no service is begun.

ARTICLE 25.

Snow-Plow and Flanging Service.

Firemen assigned to, or firemen sent out for and used in snow-plow or flanging service, shall be allowed through freight rates as per class of locomotive and district as tabulated in Sections 2, 3, 4, 5, 6 and 7 of Article 13. One hundred miles to be allowed for the first eight consecutive hours or less. If used on trip which departs from terminal or tie-up point after eight hours from the time required to report for duty, fireman shall begin a new snow-plow or flanging service day of eight consecutive hours, or less. On runs of 100 miles or less, overtime will begin at the expiration of eight hours; on runs of over 100 miles, overtime will begin when the

(Plaintiff's Exhibit No. 2 continued)

time on duty exceeds the miles run divided by $12\frac{1}{2}$. Overtime shall be paid for on the minute basis, at an hourly rate of three-sixteenths of the daily rate. When miles exceed hours, miles will be allowed.

ARTICLE 26.

Work Trains—Working Conditions.

Sec. 1. Firemen in work-train service shall be run to a place where sleeping and eating accommodations can be secured, except where the company furnishes such accommodations.

Sec. 2. Firemen held for work-train service shall be allowed 100 miles at the minimum freight rate for each calendar working day on which no service is begun; also on Sundays, except when at district terminals or at bulletined tie-up points.

Sec. 3. The bulletined tie-up point of firemen assigned to work-train service will not be changed unless the work has progressed sufficiently to warrant a change, and such new bulletined tie-up point must be in excess of 25 miles from former bulletined tie-up point.

It is understood that where the bulletined tie-up point is changed as above and the service required of the fireman is similar to that bid in by him, it will not be considered a new run, and will not be bulletined for seniority choice of firemen, and he will accept the provisions of Section 2, this Article, at such bulletined tie-up point. Bulletins changing tie-up points will read as follows:

(Plaintiff's Exhibit No. 2 continued).

"Effective Sunday bulletined tie-up point for work train held by Fireman will be instead of"

Sec. 4. Firemen leaving terminals in road service and used in work-train service en route are not subject to work train rules. They will conform to provisions of Article 22 when conditions specified in Article 22 obtain.

Sec. 5. In construction of new lines forming a part of the Southern Pacific Company's lines, Pacific Lines, firemen on the seniority district of that part of a line where the new line diverges, will be given the right to bid for service in the Construction Department under seniority rules governing. If no application is received the youngest man on the working list of that district will be assigned. The men assigned to such service will be compensated as to rates of pay and hours of service in accordance with agreement provisions. The working rules and conditions of the Construction Department will obtain.

Sec. 6. When unassigned work trains are tied up at outside points where extra lists are maintained, they should be manned from such extra lists. However, when extra men in unassigned work train service are tied up at outside points where an extra list is maintained, they should remain in that service unless it is known that work train will be tied up thereafter only at that point, in which case crew

(Plaintiff's Exhibit No. 2 continued)

from other extra list will be released and service manned from the extra list where crew ties up.

Sec. 7. When fireman is deadheaded to tie-up point of work train to fill vacancy on same, and/or on completion of day's work deadheaded from tie-up point of work train to terminal, he will be allowed deadhead mileage in accordance with Article 31, in addition to time allowed in work train service.

Sec. 8. A fireman laying off and reporting for duty will on his request be advised where work train is to tie up on completion of day's work, and will be permitted to assume duty at such tie-up point, provided the tie-up point can be determined sufficiently in advance.

Sec. 9. Firemen performing the following service will be paid miles or hours, whichever is the greater, for such service in addition to their work train day:

1. Engine crew handles light engine or engine and caboose from district terminal to outside point, goes into work train service, or engine crew handles light engine or engine and caboose from outside point to district terminal on discontinuance of work train.

2. Engine crew on completion of work train day handles light engine or engine and caboose from outside point to district terminal or other point for fuel, water, repairs, or other necessary attention to engine.

3. Engine crew handles light engine or en-

(Plaintiff's Exhibit No. 2 continued)

engine and caboose from district terminal or other point after having been fueled, watered, repaired, or received other necessary attention to engine, or handles an engine to take the place of work train engine to point where work train service begins.

4. When work train fireman performs any service out of terminal after being released at terminal or work train tie-up point, he shall begin a new day; time and mileage for subsequent service to be computed independently in accordance with the rules for class of service performed.

Sec. 10. (a) A qualified locomotive fireman will be used with self-propelled locomotive cranes, self-propelled ditchers, self-propelled pile drivers, self-propelled tail loaders, self-propelled wrecking derricks, and self-propelled steam shovels, operating in road or yard service, when such equipment is of a type that requires the use of a fireman, in connection with which it is agreed that the following will govern:

(b) Agreement covers such "self-propelled" equipment as has sufficient power to draw or propel itself and one or more standard cars, that operates on track rails.

Road Territory:

(c) Except as provided in Paragraph (e), self-propelled equipment, of the kinds and under the

(Plaintiff's Exhibit No. 2 continued)

conditions enumerated in Paragraph (a), when moving under its own power, will be manned by a locomotive fireman regardless of distance traveled; except, when handling attendant car only, locomotive fireman need not be used when distance traversed does not exceed one-half ($1\frac{1}{2}$) mile from siding or spur to place of work; locomotive firemen will be compensated under work train rates and rules of the district, Articles 13 and 26, Firemen's Agreement.

(d) On the Great Salt Lake trestle road crews will be used to load or unload material. Self-propelled equipment with attendant car only may move from first siding or spur to point of work, or vice versa, without crew complement as provided in Paragraph (c):

In Yards and at General Stores:

(e) Self-propelled work equipment, of the kinds enumerated in Paragraph (a), will not be used to switch cars, place loads, or remove empties unless manned by a locomotive fireman; this, however, not to be construed as prohibiting the use of such self-propelled equipment, without a locomotive fireman, in the shunting of cars or empties along tracks where they are being loaded or unloaded of material and supplies on material or shop yard tracks.

(f) Qualified men entitled to service under the provisions of this agreement and not used will be paid not less than they would have earned had they been called for the service.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 27.

Fire Train Service, Sacramento Division.

Sec. 1. Fireman assigned to fire train service shall be paid through freight rate per day provided in Article 13, Section 6.

Sec. 2. Working hours will be from 6:00 A. M. to 2:00 P. M. The fireman watching the engine from 6:00 A. M. to 12:00 Noon, and the engineer from 12:00 Noon to 6:00 P. M., without regard to compensation defined in Section 4.

Sec. 3. Overtime to be computed on the minute basis and paid for at three-sixteenths of the daily rate.

Sec. 4. Service other than fire train service performed between the east and west mile board of the station, designated in bulletin of assignment as the home terminal of the fire train crew, will be computed separately on the minute basis, with a minimum of one hour, and paid for at one-eighth of the daily rate; such allowance to be made in addition to compensation provided for fire train service.

Sec. 5. When used beyond the mile boards, in other than fire train service, firemen will be compensated for the service performed at the rate and under the rules governing. Such allowance to be made in addition to compensation provided for fire train service.

Sec. 6. Firemen in fire train service used in flanger service will be paid for same in addition to compensation for fire train service.

(Plaintiff's Exhibit No. 2 continued)

Sec. 7. Firemen in fire train service called for such service before 6:00 A. M. or after 2:00 P. M. will be paid therefor on overtime basis as provided for in Section 3, this Article.

Sec. 8. A fireman assigned to fire train service and required to watch his engine between the hours of 2:00 P. M. and 6:00 A. M. shall be paid for the time consumed on the minute basis, at one-eighth of the daily rate, with a minimum of one hour, same to be allowed in addition to compensation for fire train service.

Sec. 9. Firemen assigned to fire train service will be granted two days off per month with pay, provided that a full month's service has been rendered in the preceding month; for example: If fireman works the full month of June he will be given two days off in July with pay.

Sec. 10. Firemen assigned to fire train service who are required to perform work train service or make movements from fire train terminal to another point and return for purpose of securing water, fuel or other supplies used for commercial purposes or for use of contractors, or to replenish supplies used by such contractors, will be considered as performing service not a part of fire train assignment, and a minimum of 100 miles will be allowed. This will not set aside or modify provisions of Section 4, or Definition No. 2, this Article.

Firemen assigned to fire train service, who run their engines to some point for purpose of having

(Plaintiff's Exhibit No. 2 continued)

engines given necessary attention and return with same engines or other engines for fire train use, will be considered as performing fire train service and compensated accordingly.

Firemen assigned to fire train service who are required to make movement to some point to replenish oil, water, or other necessary supplies, except as provided by Paragraph 1, will be considered as performing fire train service and compensated accordingly.

Firemen who handle fire train engine, or engine with fire train equipment and/or caboose from fire train terminal to district terminal on discontinuance of fire train service, or from district terminal to fire train terminal on inauguration of fire train service, will be paid miles or hours, whichever is the greater, for such movements, in addition to fire train day, provided, however, if such movement is started before or after fire train working hours, a minimum of 100 miles will be allowed.

Definition of fire train service:

1. Going to and returning from fire.
2. Time consumed at fire.

Note: In connection with definition No. 2, it is understood whatever duties have been performed in the past at fire and paid for as fire train service will govern in the future.

3. Sprinkling sheds. —

4. Supplying quarters used by fire train crews with water.

(Plaintiff's Exhibit No. 2 continued)

5. Supplying section quarters at Andover, Tamarack and Spruce with water.

6. Supplying locomotives with water when engines run short of water account of mechanical defects, derailments, wrecks, track obstructions, defects or shortage in station supply tanks occurring after crews depart from terminal.

ARTICLE 28.

Switch Engine Service.

Sec. 1. The minimum rate of wages per day shall be:

Weight on Drivers	Firemen	Helpers
Less than 140,000 lbs.	\$6.07	\$6.07
140,000 to 200,000 lbs.	6.19	6.07
200,000 to 300,000 lbs.	6.31	6.07
300,000 lbs. and over	6.47	6.23

Mallet Type:

Less than 275,000 lbs.	7.19
275,000 lbs. and over	7.43

Sec. 2. Eight hours or less shall constitute a day's work. Time to begin when required to report for duty and to end at time engine is placed on designated track or fireman is released. Where firemen are required to register on and off duty, the time required to perform such service shall be construed to mean time on duty.

Sec. 3. Except when changing off where it is the practice to work alternately days and nights for certain periods, working through two shifts to change off; or where exercising seniority rights.

(Plaintiff's Exhibit No. 2 continued)

from one assignment to another; or when extra men are required by schedule rules to be used, all time worked in excess of eight hours continuous service in a twenty-four hour period shall be paid for as overtime, on the minute basis, at one and one-half times the hourly rate, according to class of engine.

Should fireman be held on duty account failure of relief fireman to report at time specified, he will be paid on basis of time and one-half overtime until relieved from duty.

If fireman is held on duty beyond regular hours of assignment account of company not furnishing relief, he will be paid a minimum of eight hours at time and one-half.

Examples: What compensation should be allowed for additional service when a fireman is regularly assigned to work 12 midnight to 8:00 A. M., and Company fails to furnish relief?

(a) Is required to cover the third shift on the same day—4:00 P. M. to 12 midnight?

Answer: (a) Eight hours at time and one-half.

(b) Is required in an emergency to work 8:30 A. M. until 11:30 A. M.?

Answer: (b) Eight hours at time and one-half.

(c) Is required in an emergency to work 8:00 P. M. until 12 midnight (four hours) on the same day?

Answer: (c) Eight hours at time and one-half.

Note: Extra fireman sent to point where extra list is not maintained to relieve man holding regular

(Plaintiff's Exhibit No. 2 continued)

assignment in yard service and during period relieving regular assigned man is used on second shift within a twenty-four hour period, will be allowed time and one-half for service on the second shift.

Question 90, Interpretation No. 1, Supplement No. 24:

What compensation should be allowed for additional service where a crew is regularly assigned to work 12 midnight to 8:00 A. M., and (service performed not affected by exceptions outlined in this rule):

(d) Is given 48 hours' notice and assignment is moved up an hour, starting at 11:00 P. M., and being relieved at 7 A. M., and consequently in the 24-hour period works 9 hours, but not more than 8 hours on a shift?

Decision: (d) On account of complying with the 48-hour provision, which makes it permissible to change beginning time, crews only entitled to a minimum day.

Question 91, Interpretation No. 1, Supplement No. 24:

An extra man is worked on two 8-hour shifts within the same 24-hour period, or on one 8-hour shift and is started on another shift in the same 24-hour period that spreads into the next 24-hour period. How shall he be paid for such service?

Decision: It should be understood that under that portion of Section 3 applying to extra men

(Plaintiff's Exhibit No. 2 continued)

when required to remain on duty in excess of eight hours in continuous service they will receive overtime at time and one-half on the minute basis. When they start a second trick within a 24-hour period, they will not be paid under the overtime rule, but will start a new day regardless of present rules and will receive for eight hours or less straight time rates. The intent of this is not to deprive extra men of extra work, which would result if time and one-half had to be paid for the second shift.

Note: The above (Question 91 and Decision thereto) not to conflict with ruling January 13, 1928, file E&F 125-89, allowing extra fireman time and one-half on second shift when relieving men holding regular assignment at point where extra list not maintained, and used on a second shift within a twenty-four hour period.

Question 92. Interpretation No. 1, Supplement No. 24:

What compensation should be allowed an extra man who is called and at 4 A. M. relieves a regular man who is covering an assignment, 12 midnight to 8:00 A. M., and the assignment works until 9 A. M.?

Regular fireman working 4 hours.

Extra fireman working 5 hours.

Remainder of crew working 9 hours.

Decision: Extra man will receive a minimum day only.

Question 94. Interpretation No. 1, Supplement No. 24:

(Plaintiff's Exhibit No. 2 continued)

If a yard crew was assigned for 10 hours and for some reason was relieved at the expiration of 8 hours, what number of hours is to be allowed?

Decision: A minimum of 8 hours. Assignments should be for 8 hours and time worked in excess thereof should be paid as overtime.

Sec. 4. Firemen and helpers shall be assigned for a fixed period of time which shall be for the same hours daily for all regular members of the crew. So far as is practicable, assignments shall be restricted to eight hours' work.

Sec. 5. Regularly assigned yard firemen and helpers will each have a fixed starting time and their starting time will not be changed without at least 48 hours' advance notice, except as provided in Section 12, this Article.

Sec. 6. When three eight-hour shifts are worked in continuous service the time for the first shift to begin work will be between 6:30 A. M. and 8:00 A. M., the second between 2:30 P. M. and 4:00 P. M., and the third 10:30 P. M. and 12:00 midnight.

Sec. 7. Where two shifts are worked in continuous service, the first shift may be started during any of the periods named in Section 6.

Sec. 8. Where two shifts are worked not in continuous service, the time for the first shift to begin work will be between the hours of 6:30 A. M. and 10:00 A. M., and the second not later than 10:30 P. M.

Sec. 9. At points where only one yard crew is

(Plaintiff's Exhibit No. 2 continued)

regularly employed, or an independent assignment is worked, they can be started at any time subject to Section 5.

Question 95, Interpretation No. 1, Supplement No. 24:

Should it be understood that this Section applies only to regular assignments, with no change in present practice for starting extra yard crews?

Decision: Yes.

Sec. 10. The time for fixing the beginning of assignment or meal period is to be calculated from the time fixed for the crew to begin work as a unit without regard to preparatory or individual duties.

Sec. 11. A designated point will be established for firemen and helpers coming on and going off duty, and before such points are changed 48 hours' advance notice will be given. Extra firemen will be notified when called the point at which required to report for duty.

The point for going on and off duty will be governed by local conditions. It is not considered that the place to report will be confined to any definite number of feet, but the designation will indicate a definite and recognized location.

Sec. 12. All new or vacant assignments, or when the starting time of any assignment is changed three hours or more, shall be bulletined for seniority choice of firemen or helpers in accordance with Article 39. Bulletin to show time and place required to report for duty.

(Plaintiff's Exhibit No. 2 continued)

Sec. 13. Yard firemen and helpers will be allowed twenty minutes for lunch between four and one-half and six hours after starting work without deduction in pay. Yard firemen and helpers will not be required to work longer than six hours without being allowed twenty minutes for lunch, with no deduction in pay or time therefor.

Question 104, Interpretation No. 1 to Supplement No. 15, General Order No. 27:

Where yard firemen are required by schedule to watch engines during the meal period are such rules maintained, and if so, should this be paid for at time and one-half or at pro rata rates as individual service?

Answer: Enginemen and firemen are not relieved of care of engines during lunch period; therefore, rule is eliminated.

Sec. 14. Where regularly assigned to perform service within switching limits, yard firemen or helpers shall not be used in road service when road crews are available, except in case of emergency. When used in road service under conditions just referred to, they shall be paid miles or hours, whichever is the greater, with a minimum of one hour, for the class of service performed, in addition to the regular yard pay and without any deduction therefrom for the time consumed in said service.

(1) Location of yard limit boards established as of December 20, 1933, will define switching limits.

(2) Should the management desire to extend

(Plaintiff's Exhibit No. 2 continued)

switching limits, conference will be held between local officials and local committee, B. L. F. & E.; failing to reach agreement, matter will be referred to General Chairman and General Manager, or his representative, and failing to reach settlement, case will be handled in usual manner.

(3) Firemen in yard service, who are required to go beyond the location of the yard limit boards as they stood January 1, 1926, but not beyond location of the yard limit boards as of December 20, 1933, will be paid 40 cents for each tour of duty they are required to perform work described, in addition to the tabulated yard rates and overtime earned. This will include firemen, yard service, Tracy, performing service at Banta.

(4) Firemen in yard service at Sparks, who are required to go to Reno, within Sparks yard limits, will be paid 40 cents for each tour of duty, in addition to the tabulated yard rates and overtime earned.

(5) Firemen in yard service at Roseville, who are required to make trip Roseville to Rocklin, will be compensated as set forth in Paragraph (3).

(6) Extension of Fresno train yard will not be included in this Agreement, except that during period the new unit of the Fresno yard is closed, firemen in yard service operating between the old and new yard will be compensated as set forth in Paragraph (3).

(Plaintiff's Exhibit No. 2 continued)

(7) Locations where yard limit boards stood January 1, 1926, will be definitely determined and designated by an appropriate signboard or stake.

(8) Switching limits may be contracted and should such contraction eliminate the extension subsequent to January 1, 1926, yard rates will apply.

(9) Nothing in this Agreement will restrict the extension of sidings or other tracks to properly serve present industries or to give better protection to trains entering yards; neither will it restrict the extension or enlargement of train yards.

Question 18 to Interpretation No. 2 to Supplement No. 24 to General Order No. 27:

Prior to the supplement, rules or practices were in effect which provided that when yard crews regularly assigned within yard or switching limits were used outside of such limits they would be paid the highest rate for the entire day. How is such rule or practice affected by Article XX (b)?

Decision: Superseded by Article XX (b).

Question 19 to Interpretation No. 2 to Supplement No. 24 to General Order No. 27:

Where certain crews are regularly assigned to perform work both inside and outside of yard or switching limits and on these runs the conductor, engineer and fireman are paid road rates and the brakeman yard rates, is such arrangement affected by Article XX (b)?

Decision: Not affected.

(Plaintiff's Exhibit No. 2 continued)

Question 20 to Interpretation No. 2 to Supplement No. 24 to General Order No. 27:

Does the term "minimum of 1 hour" mean that time of two short trips in road service is cumulative, or does it mean that minimum payment for each time used in road service is 1 hour?

Decision: Minimum of 1 hour for each time used in road service.

Question 21 to Interpretation No. 2 to Supplement No. 24 to General Order No. 27:

How does Article XX (b) apply in following examples:

(a) Work 5 hours in yard, then used in road service 4 hours, making 20 miles; total spread, 9 hours?

(b) Work 3 hours in yard, then used in road service 2 hours, making 10 miles; returning to yard for 4 hours; total spread, 9 hours?

(c) Work 7 hours in yard, then used in road service 3 hours, making 18 miles; total spread, 10 hours?

(d) Work 2 hours in yard, used in road service 30 minutes, making 5 miles; returns to yard and works 2 hours; again used in road service for 1 hour, making 10 miles; then returns to yard and works 2 hours and 30 minutes; total spread, 8 hours?

(e) Work 1 hour in yard, used in road service for 1 hour, making 20 miles; returns to yard and works 5 hours; again used in road service for 2 hours, making 15 miles; total spread, 9 hours?

(Plaintiff's Exhibit No. 2 continued)

(f) Assigned from 7 A. M. to 3 P. M.; work 2 hours in yard; used in road service for 1 hour, making 10 miles; returns to yard and works 4 hours; again used in road service for 5 hours, making 25 miles; relieved at 7 P. M.; total spread, 12 hours?

(g) Assigned from 7 A. M. to 3 P. M.; work 1 hour in yard; used in road service 9 hours, making 30 miles; relieved at 5 P. M.; total spread, 10 hours?

Decision: Under Article XX (b) yard engine crews regularly assigned to perform service within switching limits would be paid:

(a) Eight hours at straight yard rates, 1 hour at yard overtime rates (time and one-half), and 4 hours at pro rata road rates.

(b) Eight hours at straight yard rates, 1 hour at yard overtime rates (time and one-half), and 2 hours at pro rata road rates.

(c) Eight hours at straight yard rates, 2 hours at yard overtime rates (time and one-half), and 3 hours at pro rata road rates.

(d) Eight hours at straight yard rates, 1 hour at ~~pro~~ rata road rates for first road service, and 1 hour at pro rata road rates for second road service.

(e) Eight hours at straight yard rates, 1 hour at yard overtime rates (time and one-half), 20 miles at pro rata road rates for first road service, and 2 hours at pro rata road rates for second road service.

(f) Eight hours at straight yard rates, 4 hours at yard overtime rates (time and one-half), and 6 hours at pro rata road rates.

(Plaintiff's Exhibit No. 2 continued)

(g) Eight hours at straight yard rates, 2 hours at yard overtime rates (time and one-half), and 9 hours at pro rata road rates.

Question 22 to Interpretation No. 2 to Supplement No. 24 to General Order No. 27:

If yard crews who are regularly assigned to perform service within switching limits are used in road service when road crews are available, how shall they be paid?

Decision: Except in cases of emergency, yard crews should not be used in road service when road crews are available, but whenever used in road service, yard crews should be paid for the service under provisions of Article XX (b).

Question 23 to Interpretation No. 2 to Supplement No. 24 to General Order No. 27:

Article XX (b) reads in part: "Where regularly assigned to perform service within switching limits," etc. What is meaning of "regularly assigned?"

Decision: Engine crews who may properly be called and used in service within switching limits for which yard rates are paid shall be considered as "regularly assigned" under application of this rule.

Question 24 to Interpretation No. 2 to Supplement No. 24 to General Order No. 27:

What is the intent of the words "road service" as used in this Section?

Decision: Any service for which road rates are paid.

(Plaintiff's Exhibit No. 2 continued)

Sec. 15. When firemen or helpers who are assigned to regular runs, extra passenger lists or pooled service are used in yard service they shall be paid full freight rates, when freight rates are higher than yard rates. This includes extra firemen or helpers when in pool freight service or filling the place of regular road firemen or helpers.

Sec. 16. Switch engine positions that have been bulletined and cease to work at least six days per week shall be discontinued.

Sec. 17. Where two or more locomotives of different weights on drivers are used during a day's work, the highest rate applicable to any locomotive used will be paid for the entire day.

Sec. 18. A fireman or promoted fireman returned to firing service, under Article 43, Section 1, bidding for and accepting assignment to the position of permanent switch engineer, thereby forfeits all seniority rights as a fireman.

Sec. 19. When a regularly assigned yard fireman is used to perform maintenance of way work within yard limits, such fireman will be compensated for the entire day's work at regular yard rates.

In cases where an extra crew is called and used to perform a combination of yard service and maintenance of way work within yard limits, work train rates will apply for the day's service, when such rates are higher than yard rates.

Sec. 20. Yard assignments will not be canceled unless it is known in advance that same will be

(Plaintiff's Exhibit No. 2 continued)

discontinued for a period of three calendar days or more.

Where assignments are thus canceled, firemen relinquish rights thereto and will be privileged to make displacements under rules in effect. Yard assignments canceled under these conditions and later restored, will be bulletined for seniority choice under rules governing.

Firemen regularly assigned to shift in yard service, who are ready for service and do not lay off of their own accord, will be guaranteed not less than six days per week. If firemen, assigned seven days per week in yard service, do not work the following holidays (or the day preceding or following such holidays), New Year's Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas, the day not worked shall be deducted. In computing weekly guarantee, the week will begin on Monday on seven-day assignments, and on day following regular lay-over day on six-day assignments.

In making up guarantee, time so allowed will be paid at rate applying on the locomotive on which last used.

In cases where an extra fireman is sent to an outside point, where extra list is not maintained, to fill vacancy on regular assignment in yard service, guarantee will apply to such extra fireman during period he is filling such vacancy. However, at points where extra list is maintained and vacancy is being filled,

(Plaintiff's Exhibit No. 2 continued)

from such extra list, as per Section 3, Article 37, Firemen's Agreement, holiday or other day not worked during period extra man filling vacancy would not be paid.

Examples.

Example 1: Regular assigned fireman, six day assignment, lays off Monday, Tuesday and Wednesday. Thursday, July 4, holiday, assignment not worked. Reports 4th and works Friday and Saturday. Under this example will not be paid for 4th.

Example 2: Regular assigned fireman, six day assignment, lays off Saturday, Monday, holiday, assignment not worked. Reports for work Monday and works Tuesday to Saturday inclusive. Would not receive pay for holiday.

Example 3: Regular assigned fireman, six day assignment, works Monday. For some reason assignment does not work Tuesday (not a holiday). Works Wednesday, Thursday and Friday, and works two shifts on Saturday, or some other previous day in that week. Extra day made doubling will be used to offset day lost.

Example 4: Regular assigned fireman, six day assignment, works Monday. No service performed Tuesday, assignment not worked. Displaced Wednesday. Will receive one day for Tuesday. However if regular man doubled Monday or man relieving him should double during balance of week, man

(Plaintiff's Exhibit No. 2 continued)

displaced will not receive pay for day he did not work.

Example 5: Regular assigned fireman works Saturday, layover Sunday. For some reason assignment does not work Monday. Displaced Tuesday by senior man. Will receive pay for Monday. However, if man making displacement should double during balance of week, extra day made in such double will offset day lost by man displaced.

Example 6: Regular assigned fireman, seven-day assignment, works Monday, Tuesday and Wednesday. For some reason assignment does not work Thursday (not a holiday). Works Friday, Saturday and Sunday. Will receive pay for Thursday. However, if such assigned man should double on any day during that week, he would not be paid for day lost Thursday.

Example 7: Regular assigned fireman, seven day assignment, works Monday, Tuesday, July 4th, a holiday, assignment does not work. Lays off Wednesday. Reports and works Thursday, Friday and Saturday. For some reason assignment not worked Sunday. Will receive pay for Sunday, or a total of five days for the week. However, if assigned man should double on any of the days worked during that week, he would not be paid for Sunday.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 29.

Hostlers and Hostler Helpers Rates of Pay and Working Conditions.

Sec. 1. Hostlers handling engines between passenger stations and roundhouses or yards or on main tracks shall be classed as "outside hostlers" and shall be paid a minimum of \$6.71 per day of eight consecutive hours or less. On dates outside hostlers handle engines otherwise than between passenger stations and roundhouses or yards or on main tracks the \$6.71 rate will apply.

Sec. 2. Hostlers who do not make movements as described in Section 1 shall be classed as "inside hostlers" and shall be paid a minimum of \$6.07 per day of eight consecutive hours, or less.

Sec. 3. Helpers assisting outside hostlers shall be paid a minimum of \$5.51 per day of eight consecutive hours, or less.

Sec. 4. Except when changing off, where it is the practice to work alternately days and nights for certain periods, working through two shifts to change off; or when exercising seniority rights from one assignment to another; or when extra men are required by schedule rules to be used; all time worked in excess of eight hours continuous service in a twenty-four hour period shall be paid for as overtime on the minute basis at one and one-half times the hourly rate.

Should hostler be held on duty account failure of relief hostler to report at time specified, he will

(Plaintiff's Exhibit No. 2 continued)

be paid on basis of time and one-half overtime until relieved from duty.

If hostler is held on duty beyond regular hours of assignment account of Company not furnishing relief, he will be paid a minimum of eight hours at time and one-half.

Sec. 5. Where three eight-hour shifts are worked in continuous service, the time for the first shift to begin work will be between 6:30 A. M. and 8:00 A. M.; the second, 2:30 P. M. and 4:30 P. M., and the third, 10:30 P. M. and 12:00 midnight.

Sec. 6. New and vacant positions in hostling service shall be bulletined for seniority choice of firemen and hostlers, as soon as created or become vacant and the senior qualified fireman or hostler making application will be assigned thereto. Should there be no applications received, the junior qualified extra fireman will be assigned.

Sec. 7. When the rate of pay for "outside hostlers" equals the rate of pay for switch engineers, such positions shall be bulletined for seniority choice of road engineers as fast as vacancies occur.

Sec. 8. New or vacant positions as hostler helpers shall be bulletined for seniority choice of hostler helpers.

Hostler helpers prior to accepting employment as such will be required to familiarize themselves (without expense to the Company) with the duties of hostler helpers by accompanying regular hostler

(Plaintiff's Exhibit No. 2 continued)

during his tour of duty a sufficient period to satisfy the applicant and hostler that he is qualified to perform the necessary duties. Hostler will sign statement certifying to the qualification of applicant who will then be examined on such operating rules as Superintendent may consider necessary. Examination to be standard in character and of sufficient scope to establish ability to perform necessary duties. This will also apply to men assisting inside hostlers. Men assisting hostlers will take instructions in the performance of their duties from the hostler.

Sec. 9. Firemen having less than two years' experience as locomotive firemen and less than six months' experience on the division immediately prior to promotion to position of hostler will not be considered eligible to perform the duties of outside hostler. Firemen will be required to have six months' actual experience with Southern Pacific Company, or on some other road, as a fireman, to perform the duties of inside hostler.

Note: Experience as firemen as mentioned in this Article not to include time cut off of working list.

All men on the list who stand for this service and who have not qualified will do so. Men entering the service who have had six months' experience will qualify at once, and firemen made on the division will qualify as quickly as they have had six months' experience.

(Plaintiff's Exhibit No. 2 continued)

Firemen will be required to familiarize themselves (without expense to the Company) with the duties of hostlers by accompanying regular hostler and handling engines under his supervision a sufficient period to satisfy the applicant and regular hostler that fireman is qualified to perform the necessary duties. Hostler will sign statement certifying to the qualifications of applicant and applicant will be examined on such mechanical and operating rules as local Superintendents may consider necessary.

Hostler's qualifying statement will state that the man who was qualifying with him has been instructed as to the duties of hostler and in his opinion is qualified to perform the duties of hostler.

Hostler's examination will be standard in character and of sufficient scope to establish ability to perform necessary duties.

Men, who previous to the effective date of this Agreement have performed hostling service, will be exempt from qualifying examinations.

Firemen who have had the necessary experience to qualify as hostlers and who decline to so qualify will not be continued in service.

Sec. 10. Temporary vacancies in hostling service will be filled by a qualified hostler standing first-out on hostlers' extra list, who will hold same for ten days, unless relieved by assigned man or vacancy is taken by a senior hostler as provided in Section 11. If no qualified extra hostlers are available, the first qualified extra fireman from the extra list at

(Plaintiff's Exhibit No. 2 continued)

time call is made will be used and will hold same for seven days, unless relieved by assigned man or vacancy is taken by a hostler or fireman as provided in Section 11. When no qualified extra men are available, assigned hostler who has had the most time off duty will be used to fill the vacancy or perform the extra service, as the case may be, at pro rata rate.

Note: When no qualified extra firemen are available to fill temporary vacancies in hostling service, it will be permissible to use regular firemen without loss of compensation.

It is understood when officials have advance notice that regular hostler would lay off, effort would be made to fill vacancy by using extra man, even though it may involve deadhead movement of extra man from extra board to outside point.

Sec. 11. After a hostling position has been vacant three days, the senior qualified hostler, in point of seniority, applying for the position, shall have preference for same until the regular man returns. If qualified hostler does not make application for the vacancy, the senior qualified fireman, in point of seniority, applying for the position, shall have preference for same until regular man returns.

Note: A hostler or fireman taking a hostling vacancy under this Section will not be permitted to give up same and take another vacancy under this Section until after the expiration of ten days, unless displaced under the rules.

(Plaintiff's Exhibit No. 2 continued)

Sec. 12. On seniority districts where special rule is agreed to between Local Committee of the Firemen and the Local Officials of the Company requiring firemen or hostlers to remain on hostling positions for a stipulated period before being permitted to vacate same, special rules shall govern.

Sec. 13. On eight-hour assignments hostlers will be allowed 20 minutes, and on nine or more hour assignments 30 minutes for lunch between 4½ and 6 hours after starting work, without deduction of pay.

Sec. 14. Permanent hostlers will have preference for bulletined vacancies in hostling service, and preference of service will be governed by their seniority.

Note: See Article 41, Section 5.

Sec. 15. A fireman will not be permitted to vacate hostling assignment and mark up on extra list until the bulletin advertising his assignment has expired.

Sec. 16. Hostlers required to perform any of the following services in connection with their duties as hostler will be paid for the entire day's service at the yard engineers' rate applying to engine used to perform such service:

(1) Handling of cars of company material, fuel, cinders, sand, or the spotting of cars for loading or unloading the same.

(2) Handling wrecker or relief outfit.

(3) Handling commercial cars.

(4) Moving of tenders or dead engines from back shop to roundhouse tracks, or vice versa.

(Plaintiff's Exhibit No. 2 continued)

(5) Spotting engines for mechanics to take down or put up rods or set steam valves.

(6) Moving train, engine crew of which is tied up under Hours of Service Law, from designated switch to yard receiving track and taking engine to roundhouse.

(7) Handling part of train, engine crew of which is tied up under Hours of Service Law, by doubling train over and taking engine to roundhouse.

(8) On dates hostlers perform service outlined in Paragraphs 6 and 7, the hostler helper will receive fireman's yard rate.

Note: Handling, spotting or filling water cars used exclusively as an auxiliary water supply for road engines will not be considered handling cars of company material as specified in Item No. 1.

Examples under Item No. 5:

Question No. 1: Will hostler be entitled to yard engineers' rate when servicing engine and placing it in house under its own power?

Answer: No, not for initial spot.

Question No. 2: If required to make an additional spot on same engine, under its own power, or to use another engine to make additional spot, how will hostlers be compensated?

Answer: Will be allowed yard engineers' rate.

Sec. 17. Regularly assigned hostlers, who are ready for service and do not lay off of their own ac-

(Plaintiff's Exhibit No. 2 continued)

cord, will be guaranteed not less than six days per week. If hostlers assigned seven days per week do not work the following holidays (or the day preceding or following such holidays) New Year's Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas, the day not worked shall be deducted. In computing weekly guarantee, the week will begin on Monday on seven day assignments, and on day following regular layover day on six day assignments.

In making up guarantee, time so allowed will be paid at rate applying to assignment.

Note: Reference to hostler helpers in this Article does not enlarge upon the right of Organization to legislate for hostler helpers.

It is understood that if the duties of hostlers are defined at some future time, such definition will apply to this rule.

ARTICLE 30.

Electric Service.

Sec. 1. The Company concedes to the Organizations the right to negotiate, maintain and protect, under the protective laws of their Organizations, without segregation of committees, schedules covering rates of pay, rules of seniority and working conditions governing enginemen, trainmen and yardmen in both steam and electric service.

(Plaintiff's Exhibit No. 2 continued)

Sec. 2. Portions of the Pacific Lines in Alameda County and in Oregon that have been electrified, and any portion of the Pacific Lines that may hereafter be electrified and any new lines constructed for operation in connection therewith will not be segregated insofar as it affects the right of engineers, trainmen and yardmen, in either steam or electric service, or, of the System General Committees to legislate for and represent such employees, and the rates of pay and working conditions provided for in steam service shall apply, subject to agreement provisions. None of the above to apply to street car service.

Sec. 3. Firemen shall have the preference for the positions of helpers on electric locomotives or multiple unit trains.

Sec. 4. Before an employee in the exercise of his seniority rights is assigned to runs in the electric service from steam service, or vice versa, the Company shall have the right to establish and require such tests and standard of efficiency as it may deem necessary to satisfy itself of the competency of the employee for the position desired in order to fully provide for the safety of operation of its trains. It is agreed that an engineer who has had experience in freight service only, going into electric service and remaining therein a number of years, desiring to exercise his seniority in fast steam passenger service, may be required to qualify by first

(Plaintiff's Exhibit No. 2 continued)

going into steam freight or local service or both on the same district for a reasonable period.

Sec. 5: The term "helper" as used in this schedule will be understood to mean the second man employed on electric locomotives or other than steam power, and firemen shall have the preference for the positions of helpers.

Sec. 6. Wherever electric or other power is installed as a substitute for steam, or is now operated as a part of their system on any of the tracks operated or controlled by any of the railroads, the locomotive engineers shall have preference for positions as engineers or motormen, and locomotive firemen for the positions as firemen or helpers on electric locomotives; but these rates shall not operate to displace any men holding such positions as of April 10, 1919.

(This Section is taken from Article VI, Supplement No. 24, and the inclusion by the Company was wholly account decision Case No. 27425.)

ARTICLE 31.

Deadhead Service.

Sec. 1. Firemen deadheading on Company's business on passenger trains will be paid for the actual mileage at 4.82 cents per mile and for deadheading on other trains at 5.46 cents per mile; provided that a minimum day at the above rates will be paid for the deadhead trip, if no other service is performed

(Plaintiff's Exhibit No. 2 continued)

within 24 hours from the time called to deadhead. Deadheading resulting from the exercise of seniority rights or in the regulation of mileage under Article 43, Section 4, will not be paid for.

Question (a): In case where fireman, cut off working list, transferred from one seniority district to another for temporary service, is he entitled to time deadheading to or from division to which transferred or for time learning the road?

(b): In case where fireman is taken from working list and transferred from one seniority district to another for temporary service, is he entitled to time deadheading to or from division to which transferred and for time learning the road?

Answer (a): No.

(b): Yes.

Question: In case where extra list is reduced under Article 43, Section 8, and one or more of men cut off list is holding assignment or filling vacancy at outside point, is the man, or men, deadheaded out to furnish relief, entitled to payment for deadheading?

Decision: Yes; however, if it is known that men cut off list will return to terminal within four days from 12:01 A. M., date list is cut, no relief will be furnished, and man cut off will continue in service until return to terminal.

Question: Is fireman entitled to compensation for deadhead trip from outside point to terminal

(Plaintiff's Exhibit No. 2 continued)

when run to which he was assigned is canceled?

Answer: Yes.

Question: Is fireman assigned to a run as provided in Section 8, Article 39, account no bids having been received, entitled to deadhead compensation?

Answer: Yes.

Sec. 2. Where the Company moves firemen from one point to another to augment an extra list for a rush period or for a short period of time, the men so transferred will be paid for deadheading and when their services are no longer required at the point to where sent the same men will be returned and compensated for deadheading to the point or station where originally stationed.

Sec. 3. Where extra lists are reduced at the request of the firemen's local committee, firemen deadheading from one point to another as a result thereof will not be paid for the deadhead.

ARTICLE 32.

Watching and Firing Up Locomotives.

Sec. 1. In case a fireman is required to fire up a locomotive, he shall be allowed two hours for such service, at forty-eight cents per hour. When it is desired that firemen will come on duty ahead of balance of crew for the purpose of starting fire in engine, such fireman will be given written instructions.

(Plaintiff's Exhibit No. 2 continued)

After fireman has been placed in charge of locomotive and is under pay, igniting oil in firebox, or taking such other means as may be necessary to keep fire alive does not constitute firing up a locomotive.

Firemen will not be required to start fires in locomotives where same are in charge of watchman or roundhouse force. If any fireman is required to light fire before pay for other service begins, he will be allowed a minimum of two hours.

Sec. 2. Firemen called to watch engines shall be paid deadhead rate going to and returning from point where engine is to be watched and will be paid through freight rate according to class of engine and district, with a minimum of eight hours for each day engaged in or held for such service; overtime after eight hours at $\frac{3}{16}$ of the daily rate on the minute basis. If required to watch more than one engine, the rate applicable to the largest engine watched shall apply.

Sec. 3. Firemen used to watch their own engine account no watchman available to be compensated under Article 12, but will not be used to watch more than one engine in addition to their own.

Note: It is understood under Article 32, Section 2, the number of engines that firemen may be required to watch is not limited.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 33.

Court Service.

Sec. 1. Firemen, hostlers or hostler helpers ordered into court service as witnesses in the service of the Company, or to attend coroner's inquest, safety meeting, fuel meeting, board of inquiry or investigation, shall be compensated as follows, with necessary expenses when away from home terminal, expense account to be approved by the Department under which the man in question serves.

If required to lose time, they shall be paid not less than they would have earned had they been used in regular turn. If no time is lost but firemen, hostlers or hostler helpers are required by the Company to deadhead from terminal to another point or from some point to terminal before beginning day's work, or after completion of same, or on lay-over day, for any of the above purposes, they will be paid \$4.52 per day in addition to compensation for service performed on that date.

Sec. 2. If called for the purpose of giving depositions at home terminals on regular layover days, and go out in regular turn on regular run, without loss of time, firemen, hostlers or hostler helpers will be paid for actual time consumed at 48 cents per hour.

Sec. 3. Firemen, hostlers and hostler helpers will not be called for any other service while being held off for court service.

(Plaintiff's Exhibit No. 2 continued)

Note: Regarding investigation, the provisions herein will apply when man is found not at fault.

ARTICLE 34.

Held For Service.

Firemen held at the instance of the Company for service at any point shall be paid \$4.52 for each calendar day on which no service was begun.

ARTICLE 35.

Held Away From Home Terminal.

Sec. 1. Firemen or helpers in pooled freight and in unassigned service, held at other than home terminal, will be paid continuous time for all time so held after the expiration of 16 hours from the time relieved from previous duty, at the regular rate per hour paid them for the last service performed. If held 16 hours after the expiration of the first 24-hour period, they will be paid continuous time for the next succeeding eight hours, or until the end of the 24-hour period, and similarly for each 24-hour period thereafter. Should a fireman or helper be called for duty after pay begins, time will, except for deadhead service, be computed continuously, provided that if overtime accrues on the trip that portion of the overtime due to starting pay at the expiration of the 16-hour period, instead of at the time actually required to report for duty, shall be paid at the pro rata rate, in order that time

(Plaintiff's Exhibit No. 2 continued)

and one-half for overtime will not be so applied as to increase the rates paid for time growing out of the held-away-from-home-terminal rule.

This to apply to extra passenger firemen, except when filling a vacancy in assigned service.

The initial terminal time will be combined with the road time as continuous time.

Switching will be paid for in accordance with existing schedule provisions.

Sec. 2. Local Officials and Local Committees will jointly specify all home terminals for firemen and helpers.

ARTICLE 36.

Full Time Per Week Guaranteed.

Sec. 1. When, from any cause, more firemen are holding a certain run than can, per actual mileage of said run, average weekly 100 miles per day, mileage in excess of miles run will be allowed sufficient to give each fireman 100 miles for each day per week the train or trains composing the run are scheduled to run, with a minimum of 600 miles per week for each fireman, at standard pay for service and division on which such runs occur; provided, fireman is available for service on assigned or other runs. This not to apply to firemen holding runs the daily number of trains composing which is uncertain.

Sec. 2. In computing the weekly guarantee of firemen, the mileage so allowed will be paid at the

(Plaintiff's Exhibit No. 2 continued)

rate applying on the locomotive on which last used.

Sec. 3. In case fireman assigned to straightaway local freight service, or a series of branch freight runs, established mainline turnaround local freight service as specified in Article 14, Section 1, or roustabout service as specified in Article 20, lays off, the sum of the payments to the regular man and extra man, or men relieving him, exclusive of overtime, will equal the weekly guarantee.

Sec. 4. Local freight assignments will not be canceled unless it is known in advance that run will be discontinued for a period of three (3) days or more. However, in case of restoring run where assignment, territory or service is changed, it will be considered a new run and this Section will not apply; neither will this Section restrict the use of assigned local freight firemen in other service on dates their runs do not operate.

Note: The above will be construed as not changing present practice insofar as using crews out of terminals, where pool crews are maintained, to make up guarantee.

Question: In case fireman not used on assignment account insufficient rest, how should he be compensated for time lost?

Decision: In case fireman not used on assignment account not available under Hours of Service Law, he will be compensated full mileage of his assignment; where not available by reason of marking rest, he will not be compensated for time lost.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 37.

How Firemen Shall Be Run.

Sec. 1. Firemen assigned to regular runs, the trains composing which are designated by time table or by bulletin, shall be run on the trains to which they have been assigned: provided, when from any cause the runs become disarranged, firemen assigned to the same class of trains and running between the same terminals, shall be run first-in first-out until the runs can be rearranged.

Sec. 2. Firemen assigned to pooled runs, the daily number and kind of trains composing which are uncertain, shall be run first-in first-out on all trains not covered in Section 1, this Article, except when extra firemen are available work trains shall be manned from the extra list of firemen where such trains are sent out from points where extra lists are maintained.

Question: In case pool freight fireman not dead-headed from terminal to point for service to which entitled, how should he be compensated?

Answer (a): If there was not sufficient time and available train service on which to have deadheaded a pool freight fireman for service to which entitled, from terminal to point where service was performed, no allowance will be made to pool freight fireman who stood for the service.

(b): If investigation develops that there was sufficient time and available train service on which to

(Plaintiff's Exhibit No. 2 continued)

have deadheaded pool freight fireman entitled to the work, from terminal to point where service was performed, such pool freight fireman will be allowed the same earnings as paid the fireman injected into the pool, including overtime.

Note: Answer (b) will not apply in the event fireman is run around at terminal. In such instances the provisions of Section 17 of this Article will be applied.

Sec. 3. Firemen assigned to the extra list shall be run first-in first-out of the terminal where assigned, working on all vacancies, runs and trips not otherwise provided for. If filling vacancy or augmenting pool, firemen shall be returned to point where assigned to extra list before being displaced from the run. Ordinarily extra lists will be maintained only at division or district terminals and effort will be made to fill all vacancies or new runs, not otherwise provided for, from these lists. When necessary, extra lists may be established at outside points where assigned runs terminate, or at an assigned helper station, but they will be maintained only for such time as the earnings of firemen thereon average the equivalent of six hundred miles per week. Such extra lists will not be established for less than ten days.

Where extra men are assigned to an outside point as provided above, such point will be considered as their home terminal and they will be used to fill

(Plaintiff's Exhibit No. 2 continued)

vacancies or perform extra work assigned to such extra list. If firemen thus assigned are run to division or district terminals in extra service where extra list is maintained, they will, upon arrival at a division or district terminal, be promptly deadheaded to their assigned territory or run back on light engine after required rest period without run-around penalty. If there are no men available at such point who are entitled to the work, men may be returned to their assigned territory in service.

Question: In case extra board fireman not deadheaded from terminal to any point for service to which entitled, how should he be compensated?

Answer (a): If there was not sufficient time and available train service on which to have deadheaded the extra fireman for service to which entitled, from terminal to point where service was performed, no allowance will be made to extra fireman who stood for the service.

(b): If investigation develops that there was sufficient time and available train service on which to have deadheaded extra fireman entitled to the service, such extra fireman will be allowed the same earnings as paid the fireman who performed the service, including overtime.

Note: Answer (b) will not apply in the event fireman is run around at terminal. In such instances the provisions of Section 17 of this Article will be applied.

(Plaintiff's Exhibit No. 2 continued)

One man extra list may be maintained at any point. Fireman on such one man extra list will be guaranteed the equivalent of 600 miles per week during period such extra list is confined to but one man. In computing guarantee, Monday will be considered as first day of week, and in computing periods of less than one week, pro rata of guarantee for number of days assigned to extra list will be allowed.

In making up guarantee, mileage so allowed will be paid at the rate applying to the locomotive on which last used. Mileage deadheading to and from such extra list will be included in computing guarantee.

When such extra list is discontinued and extra man protects list beyond 12 o'clock noon, that day will be included in computing guarantee; likewise, man sent out for service on one man extra list reports and is placed on extra list prior to 12 o'clock noon, that day will be included in computing guarantee.

Note: When fireman, standing first-out, cannot be found, or who lays off at time called for deadhead trip to outside point, the fireman standing next out should be sent and paid for deadhead in both directions, and when the fireman who stood first-out is found or reports, he will be sent to outside point without deadhead compensation in either direction.

Sec. 4. When it is necessary, account no other men available, to use firemen assigned to regular

(Plaintiff's Exhibit No. 2 continued)

runs or pooled freight service beyond the limits of their assignments, they will, upon arrival at a division or district terminal, be promptly deadheaded to their assigned territory or run back on light engine after required rest period without runaround penalty. If there are no men available at such point who are entitled to the work, men may be returned to their assigned territory in service.

Sec. 5. Extra firemen filling vacancies in assigned service shall be governed by the service conditions and allowed the rates of pay of the assigned men.

Sec. 6. Extra firemen working on a run during the life of a bulletin will be paid in the same manner as if filling vacancy of a regular assigned man. If run is continued for less than six days, bulletin will be considered as void and firemen will be compensated as if bulletin had not been issued.

Sec. 7. Should it be necessary to use pooled firemen on assigned runs account no other men available, they will take the conditions of the regular assignment and on return to terminal shall immediately go on the pool list, and should it again be necessary to send out a pooled man on the assignment for the above reason, same conditions will apply.

Above will not apply to pooled men used in switching service.

In case it is necessary to send pooled firemen to take an assignment with terminal of run away from

(Plaintiff's Exhibit No. 2 continued)

their headquarters because of no other men available, they will take the conditions of the regular assignment, but must be relieved and returned to their headquarters as soon as extra men are available.

Note: Nothing in this Section will prevent certain firemen holding runs for more than one trip or day's assignment as provided for in Section 8, this Article.

Sec. 8. When a regular passenger fireman is off, the pooled freight fireman, or the extra fireman filling a pooled freight vacancy as per Section 9, this Article, working on the same district or sub-district, standing first out at the time call is made for passenger service, shall be called to relieve him and will be permitted to hold the run for ten days unless relieved by regular fireman returning.

When a fireman in pooled freight service lays off, or is filling vacancy in passenger service under the provisions of this Section, a "space" is marked up to be filled as provided in Sections 3 and 9, this Article. When call is made for service, the fireman standing first out on the extra list will be called and will remain in the freight pool until returned to point where assigned to the extra list before being displaced from the pool; he is then marked up at the foot of the extra list. Should the pooled freight fireman who laid off not have reported for work at the time "space" returns, the "space" remains in the pool and advances toward the "first out" position.

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tion in the same manner as would the turn of the regular man advance, and should the pooled freight fireman laying off not report before call is made, the extra man standing first out at the time call is made goes out in the "space." Should the pooled freight fireman laying-off report before call is made, he will be placed at the foot of the pooled freight list at the time he reports for duty, in accordance with Section 11, this Article, and "space" will be eliminated, all firemen following "space" being advanced one turn. The "space" will be eliminated upon first return of fireman filling same after the regular man reports.

Sec. 9. After a regular or pooled freight or passenger fireman has been off for a period exceeding ten days, the older firemen on the seniority list, in their order of seniority, applying for the position, shall have preference for the run until the regular fireman returns.

A fireman taking a run in pool freight service must wait until the space is on the board before being marked up on same. The Company shall not be penalized as result of the application of this interpretation.

Note: A fireman taking a run under Section 9 will not be permitted to give up same and take another run until after the expiration of ten days, unless displaced under the rules or assigned by bulletin to another run.

Sec. 10. Firemen with less than one year's ex-

(Plaintiff's Exhibit No. 2 continued)

perience in road service and sixty days on the seniority district, will not be called for passenger service when other firemen are available.

Road service as mentioned above is understood to include service as fireman on other railroads.

Sec. 11. A fireman in passenger or regular freight service reporting for work after lay-off must report not less than five hours prior to schedule leaving time of his train: A pooled freight fireman reporting for work will be placed at the foot of freight list at the time he reports. Firemen in pooled freight or extra service requesting layoff will not be permitted to mark up on the board for service until after the expiration of twelve hours.

Under Section 11, Article 37, it is understood this does not restrict the Company in requiring firemen to perform service in case other men are not available.

Sec. 12. A fireman after filling a passenger vacancy shall be returned to his place in accordance with his arrival in passenger service, with the understanding that no runarounds will be paid in effecting this change.

Sec. 13. When call is made for more than one fireman for the same train, one or more of them to doublehead, help or deadhead on the train, the call shall be made first, to man the train; second, to doublehead; third, to help; and fourth, to deadhead; using them first-in first-out. Upon their arrival at terminal they shall register in accordance with

(Plaintiff's Exhibit No. 2 continued)

their standing at the time call was made at the initial terminal.

Sec. 14. When a relief locomotive is sent out to take the place of a disabled locomotive in passenger service, the passenger train fireman will be entitled to take the relief locomotive and complete the trip.

Sec. 15. A fireman assigned to a regular run and, at the instance of the Company, called for other service, thus causing him to miss his regular run, will be paid for such other service not less than he would have earned had he been sent out in turn in the service to which assigned. This not to include overtime.

Question: (a) If it becomes necessary to call a fireman for service as an emergency engineer, when the engineers' extra list is exhausted, who should be called?

(b) Should a senior demoted engineer holding assignment as fireman become available after man used under (a) returns to terminal or completes day's work, who should be used?

Answer: (a) The senior available qualified man in accordance with his seniority as engineer.

(b) The senior available man.

Note: Question and Decision under Section 4, Article 36, to apply to this Section.

Sec. 16. Firemen assigned to regular runs, the trains composing which are designated by time table or by bulletin, who, through no fault of their own,

(Plaintiff's Exhibit No. 2 continued)

are not called in regular turn for the service to which assigned, shall be paid fifty miles, at the rate applying on the locomotive and in the service in which they should have been used; if required to remain out of service until their runs return, they shall be paid not less than they would have earned had they been sent out in their regular turns. This not to include overtime.

Sec. 17. Firemen assigned to pooled or extra service, running first-in first-out, who, through no fault of their own, are not called in regular turn for the service to which they are entitled under the provisions of this agreement, the man first out shall be allowed fifty miles at the rate applying on the locomotive and in the service in which he should have been used, for each runaround and permitted to retain his position on the board.

Question: Firemen assigned to run with terminal at outside point, take their engine to district terminal, which is off their assigned territory, for boiler wash, or other necessary attention, after which they return with engine to their assignment. Is it permissible to couple this light engine into train out of district terminal on return movement, without runaround penalty to firemen standing first out at such terminal?

Decision: Yes. Provided train into which engine is coupled does not require and would not be given help out of such terminal.

Sec. 18. Extra firemen sent to outside points

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where extra boards are not maintained, will, upon request, be relieved at the expiration of seven days. In relieving men in such cases, the Company will not be required to pay for deadheading other than what would have been allowed had the relief not been furnished.

Example: Regular fireman assigned local freight, home terminal Santa Cruz, lays off 60 days. Fireman A deadheads to Santa Cruz and remains on vacancy seven days; is relieved by Fireman B, who remains on vacancy seven days. B is relieved by C, who remains on vacancy seven days. C is relieved at expiration of seven days by Fireman D. At expiration of seven days, regular man returns and D deadheads to San Francisco. Under this example, A would be allowed deadheading San Francisco-Santa Cruz and D would be allowed deadheading Santa Cruz-San Francisco.

Sec. 19. On seniority districts where special rules are made by Local Officials of the Company and the Local Grievance Committee of the Firemen on said districts, as to the filling of vacancies, arrangement of runs, under this Article, local rules shall govern.

Such local rule, when agreed upon, shall be submitted to the General Manager of the Company, or his representative, and the General Chairman of the Firemen for approval, and, if approved, shall become effective upon a date to be specified by the General Manager of the Company, or his repre-

(Plaintiff's Exhibit No. 2 continued)

sentative, and the General Chairman of the Firemen, and will remain in effect until changed by the same authority negotiating same.

ARTICLE 38.

Calling Firemen.

Sec. 1. Firemen will be called for all service as near as practicable one hour and thirty minutes before time required to report for duty. Where calling limits are established, this to apply only within such limits.

Sec. 2. Callers will be provided with a book, in which shall be shown the time the fireman called shall report for duty and the time he is to leave. The fireman shall sign the book and register the time at which called. Firemen called by telephone will sign a similar form at the registering point.

Question: What method should be followed in determining whether or not fireman may be used for additional service after making one or more trips?

Decision: Forecast should be made by taking the average time consumed for a period of 15 days for the train (if scheduled), or for trains handling similar traffic (if an extra), running in the direction and between the points trip is to be made, to which should be added the time fireman is required to be on duty before leaving, and the average time consumed in reaching roundhouse where fireman is

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relieved, exceptions being when abnormal conditions prevail, such as severe storms, washouts, and where interruptions of the line could be reasonably expected.

Question: How shall fireman be called for wrecking service.

Decision: When call is placed for wrecking outfit, fireman standing first out and entitled to the work shall be called, except in cases where main track is blocked and to call firemen standing first out would delay wrecker beyond time members of wrecking crew are ready to proceed; in such case, the Company will be privileged to use firemen who can be secured with the least possible delay, without runaround penalty.

Sec. 3. When firemen are called and not used, they shall be paid a minimum of two hours at fifty-five cents per hour; and at the rate of fifty-five cents per hour for all time held over two hours. Such time to be computed and paid for in addition to compensation for other service begun on the same date. If held less than eight hours, fireman shall stand first out; if held eight hours or more, he shall be placed at foot of list at time relieved.

Sec. 4. Where the fireman or helper called begins any actual service, the provisions of this Article shall not apply, and men shall be compensated under agreement provisions defining the beginning and ending of a day.

Sec. 5. When call is annulled and no instruc-

(Plaintiff's Exhibit No. 2 continued)

tions given fireman with respect to further duty, the first call will be paid for in accordance with Sections 3 or 4, the allowance depending upon whether or not any service is begun. However, if fireman is not released, and instructed to come on duty again later for service originally called for, or some other service, or service is changed while fireman is on duty, departing in service other than that originally called for, time of trip on which he departs will be computed from time coming on duty on original call.

ARTICLE 39.

Bulletining Runs.

Sec. 1. Rights of firemen to preference of runs shall be governed by seniority in service; except that a fireman assigned to a bulletined position will not be permitted to bid for and be assigned to his former assignment until such assignment has been once filled and thereafter becomes vacant, except in cases of displacement.

Sec. 2. All new runs will be bulletined for seven days for seniority choice of firemen as soon as created.

On bona fide new runs of from six to ten days duration where it can be anticipated sufficiently in advance, such runs will be bulletined for seniority choice of firemen for seven days prior to first date service is to be performed, in order that the senior man bidding for same may be placed on the run.

(Plaintiff's Exhibit No. 2 continued)

Sec. 3. All vacant runs shall be bulletined on Saturdays and bulletin notice sent to each terminal promptly. Applications must be made in writing, copy of which, if filed with Roudhouse Foreman, will be considered as evidence in case of lost bids. Notice of assignment to runs bulletined on Saturday shall be issued on the following Saturday.

Sec. 4. Local chairmen shall be furnished copies of all bulletins and notices of assignments as soon as same are issued.

Sec. 5. Bulletin notices of assignment of senior applicants to runs secured by seniority choice will be sent to each terminal promptly, and the posting of such bulletins will constitute notice of assignment and will release men shown on such bulletin of assignment from previous runs or service if at home terminal of the run; if not at home terminal on date bulletin is posted, will be released from run or service upon first arrival at home terminal after such date; except where the home terminal of the previous assignment is an outside point, in which case the Company will have 72 hours from 12:01 A. M. following the date bulletin assignment is issued to furnish relief at outside point. Should the Company fail to relieve a man holding a run with home terminal at outside point at the expiration of the 72-hour period, he will be paid, beginning at the expiration of the 72-hour period, if his new assignment is to be a regular run, not less than he

(Plaintiff's Exhibit No. 2 continued)

would have earned (exclusive of overtime) had he been placed on such regular run; if new assignment is to pool freight service, will be paid freight rates per class of locomotive and district, not less than 12½ miles per hour (terminals of service on which held to apply) for the service performed until placed in pool freight service.

Sec. 6. Consideration will be given all applications for new or vacant runs until 8:00 A.M. of the date on which bulletins advertising same expire.

Sec. 7. When either the home or the away from home terminal of a run is changed, a freight or mixed run is changed to a passenger run, a passenger run is changed to a mixed or freight run, an assigned run is put into a pool, when the leaving time of a train is changed two hours or more, it shall be considered a new run and bulletined accordingly. A fireman losing his run under these conditions may retain run during existence of bulletin.

Sec. 8. When a run is bulletined and no bids are received, the youngest extra fireman, in point of seniority in service, will be assigned.

Sec. 9. A regularly assigned fireman will be permitted, on written request, to give up his assignment and go on the extra list, with the understanding that fireman thus vacating his assignment will remain on same during life of bulletin and until relieved by the man who is assigned, and also that the Company will be at no expense for deadheading or time lost on account of such changes.

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Note: It is understood in filling vacancies at outside points, extra man will be paid on basis governing regular man whose place he is filling, and fireman filling new position during life of bulletin will be compensated on the basis covered by assignment.

ARTICLE 40.

Seniority Districts.

Sec. 1. All main line, and connecting branch lines not otherwise specified, designated as the Pacific Lines, shall be divided into seniority districts on which firemen, hostlers and hostler helpers shall hold permanent seniority rights as follows:

Western District: Between Oakland and Sacramento, Oakland and Tracy, Oakland and San Jose and Santa Clara.

Stockton District: Between Tracy and Fresno, Tracy and Sacramento, and Lathrop and Fresno.

Sacramento District: Between Sacramento and Red Bluff, Davis and Red Bluff, Sacramento and Sparks, including all branch lines terminating at Sacramento, including the Placerville Branch.

Sparks District: Between Sparks and Carlin.

Ogden District: Between Carlin and Ogden.

Shasta District: Between Red Bluff and Ashland, Black Butte and Klamath Falls, Klamath Falls and Wendel, including Lakeview Branch.

Coast District: Between San Francisco and Santa Barbara.

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Portland District: Between Portland and Ashland, Eugene and Klamath Falls.

San Joaquin District: Between Santa Barbara and Los Angeles, Los Angeles and Fresno, Mojave and Owenyo..

Los Angeles District: Between Los Angeles and Yuma, including all branch lines.

Tucson District: Between Yuma and El Paso via Gila and Lordsburg, including Nogales Branch.

Globe District: Former Globe District of the former Arizona Eastern Railroad, Bowie to Miami (including branch lines).

Phoenix District: Former Phoenix Division of the Arizona Eastern Railroad, Hassayampa to Christmas, including branch lines, Phoenix to Maricopa and Casaba.

Sec. 2. When a railroad system, or portion thereof, is leased or absorbed by the Southern Pacific Company (Pacific Lines), the seniority rights of the firemen, hostlers and hostler helpers found employed thereon shall not be disturbed unless and until so determined by the General Grievance Committee and negotiated with the Management.

Sec. 3. When it becomes necessary to readjust the service of the merged roads on account of runs extending over other districts or a part thereof, such runs shall be assigned as provided in Section 5, this Article.

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Sec. 4. Should the Company construct a line connecting two districts, the firemen, hostlers and hostler helpers on the districts so connected shall hold seniority jointly on the connecting lines.

Sec. 5. When established runs are so changed or new runs created, thus causing firemen or helpers to run over more than one district or part thereof, vacancies or open runs thereon shall be filled in such service in proportion to the mileage of each seniority district over which the run extends.

Sec. 6. When firemen on two seniority districts desire to exchange seniority rights, they shall be permitted to do so, provided they secure the consent of the officials of the Company. The seniority date of both firemen to be that of the junior fireman, party to the exchange.

Engineers who have been promoted on the division where employed and subsequently exchanging seniority rights, as engineers may also exchange their firing rights in the same manner as they would have been privileged to do prior to their promotion.

Firemen making exchanges under this Section may make displacement on new seniority district in accordance with their seniority rights thereon.

Note: The provisions of Section 6, Article 40, Firemen's Southern Pacific Agreement, will apply to all portions of the Pacific Lines, including former El Paso and Southwestern.

Under the above, firemen may transfer in accordance with the provisions of this Section, from the

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Rio Grande Division to the New Mexico Division, or vice versa, or from the Rio Grande or New Mexico Division to any other division on the Pacific Lines.

ARTICLE 41.

Seniority Dates of Firemen, Hostlers and Hostler Helpers.

Sec. 1. The Company shall print a separate seniority list of firemen, hostlers and hostler helpers on their respective seniority districts on January and July first of each year, a copy of which shall be posted in each roundhouse and at each terminal where roundhouse is not maintained. Copy will also be furnished the Chairman of the Firemen's Local Grievance Committee and General Chairman.

Sec. 2. The date of seniority of firemen shall be the date of their first service as firemen or hostlers when hired for such service.

Sec. 3. Firemen hired for road service prior to December 1, 1918, will be given a yard date as of December 1, 1918.

In the exercise of seniority rights under this section, firemen will use road date in bidding for road runs and yard date in bidding for yard assignments.

Sec. 4. Fifty per cent of additions to lists of firemen shall be experienced firemen.

Sec. 5. The date of seniority of hostlers shall be the date of their first service as hostler, and such list shall only include hostlers who were in the

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service as hostlers August 19, 1918, and those who have or may, by mutual agreement (between the Management and the Firemen's General Committee), enter hostler service permanently in the future.

Sec. 6. The date of seniority of hostler helpers shall be their first service as hostler helpers.

ARTICLE 42.

Promotion of Firemen to Road Engineers.

Sec. 1. Firemen shall rank on the firemen's roster from the date of their first service as firemen or hostler when called for such service, except as provided in Section 14, and when qualified shall be promoted to positions as engineers in accordance with the following rules:

Sec. 2. Firemen shall be examined for promotion according to seniority on the firemen's roster, and those passing the required examination shall be given certificates of qualification, and when promoted shall hold their same relative standing in the service to which assigned.

Sec. 3. Upon failure to pass or refusal to take first examination, mechanical or transportation, a fireman will forfeit the right to promotion for six months, at the end of which time he must take or refuse second examination. In case of refusal or failure on second examination, his seniority rights will be arbitrarily reduced to one year, but he will

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be permitted to exercise his original seniority on any unassigned extra list on his seniority district, except in the application of Section 4, Article 23; Section 11, Article 29; Section 9, Article 37; Section 1, Article 39; or Section 6, Article 40, when he will be restricted to seniority date established after having failed or refused second examination.

Sec. 4. Firemen having successfully passed the required examination for the handling and care of locomotives, and knowledge of rules and regulations adopted and enforced by the Operating Department, shall be eligible as engineers. Promotion and seniority as road engineer to date from first service as engineer on any class of locomotive.

Sec. 5. If for any reason the senior eligible fireman or engineer to be hired is not available and junior qualified fireman is promoted and used in actual service out of his turn, whatever standing the junior fireman so used establishes shall go to the credit of the senior eligible fireman or engineer to be hired, provided the engineer to be hired is available and qualifies within thirty days. As soon as the senior fireman or engineer to be hired is available, as provided herein, he shall displace the junior fireman, who shall drop back into whatever place he would have held had the senior fireman to be promoted or engineer to be hired been available and the junior fireman not used.

Note: Qualification, as referred to herein, is not intended to include learning of road or signals.

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Sec. 6. As soon as a fireman is promoted he will be notified in writing by the proper official of the Company of the date of his promotion, and unless he files a written protest within sixty days against such date, he cannot thereafter have it changed. When a date of promotion has been established in accordance with regulations, such date shall be posted and if not challenged in writing within sixty days after such posting no protest against such date shall afterwards be heard.

Sec. 7. No fireman shall be deprived of his right to examination nor to promotion in accordance with his relative standing on the firemen's roster, because of any failure to take his examination by reason of the requirements of the Company's service, by sickness, or by other proper leave of absence. Provided, that upon his return he shall be immediately called and required to take examination and accept proper assignment.

Sec. 8. Where stenographic notes are taken of examination, firemen will be furnished copy upon request.

Sec. 9. The posting of notice of seniority rank, as per Section 6, shall be done within ten days following date of promotion, and such notice shall be posted on every bulletin board of the seniority district on which the man holds rank.

Sec. 10. Firemen having successfully passed qualifying examinations shall be eligible as engineers. Promotion and the establishment of a date of

(Plaintiff's Exhibit No. 2 continued)

seniority as engineer, as provided herein, shall date from the first service as engineer, when called for such service, provided there are no demoted engineers back firing. No demoted engineer will be permitted to hold a run as fireman on any seniority district while a junior engineer is working on the engineers' extra list or holding a regular assignment as engineer on such seniority district.

Note: On roads where promotion is to road service only, promotion and establishment of seniority date as road engineer will obtain.

Section 11. On a seniority district where firemen are required to fire less than three years, all engineers will be hired:

If required to fire 3 and less than 4 years, 1 promoted and 1 hired;

If required to fire 4 and less than 5 years, 2 promoted and 1 hired;

If required to fire 5 and less than 6 years, 3 promoted and 1 hired;

If required to fire 6 and less than 7 years, 4 promoted and 1 hired;

If required to fire 7 and less than 8 years, 5 promoted and 1 hired.

On seniority districts where firemen are required to fire eight years or more, all engineers will be promoted.

The foregoing will not prevent committees from having discharged engineers re-employed or re-instated on their former seniority districts at any time.

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Sec. 12. If the engineer to be hired is not available when needed and the senior qualified fireman is promoted, the date of seniority thus established shall fix the standing of the hired engineer, who, if available and qualified within thirty days from date senior qualified fireman is promoted, will rank immediately ahead of the promoted fireman.

The promoted fireman will retain his date of seniority as engineer and will be counted in proportion of promotions.

Sec. 13. In case an engineer is hired and used in actual service when, under requirements of Section 11 a fireman (or firemen) should have been promoted, the date of the seniority thus established shall fix the standing of the senior qualified fireman (or firemen) due to be promoted, provided he or they are eligible and qualify within thirty days, who shall rank immediately ahead of the hired engineer on the engineers' seniority list. The hired engineer will retain his date of seniority and be counted in proportion of engineers to be hired.

Sec. 14. The seniority date of the hired engineer shall be the date of his first service as engineer, except as provided in Sections 5, 12 and 13 of this Article. It is further provided that engineers hired or permanently transferred from one seniority district to another shall be given a date of seniority as fireman corresponding with their date as engineer.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 43.**Demotions and Lost Runs.**

Sec. 1. When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working list on any seniority district, those taken off may, if they so elect, displace any fireman their junior on that seniority district under the following conditions:

First: That no reduction will be made so long as those in assigned or extra passenger service are earning the equivalent of 4000 miles per month; in assigned, pooled or chain-gang freight, or other service paying freight rates, are averaging the equivalent of 3200 miles per month; on the road extra list are averaging the equivalent of 2600 miles per month, or those on the extra list in switching service are averaging 26 days per month.

Second: That when reductions are made they shall be in reverse order of seniority.

Sec. 2. When hired engineers are laid off on account of reduction in service, they will retain all seniority rights; provided, they return to actual service within 30 days from the date their services are required.

Sec. 3. Engineers taken off under this rule shall be returned to service as engineers in the order of their seniority as engineers, and as soon as it can be shown that engineers in assigned or extra passenger service can earn the equivalent of 4800 miles

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per month; in assigned, pooled, chain-gang or other regular service paying freight rates, the equivalent of 3800 miles per month.

Sec. 4. In the regulation of passenger or other assigned service, sufficient men will be assigned to keep the mileage, or equivalent thereof, within the limitation of 4000 and 4800 miles for passenger and 3200 and 3800 miles for other regular service, as provided herein. If, in any service, additional assignments would reduce earnings below these limits, regulation will be affected by requiring the regular assigned man or men to lay off when the equivalent of 4800 miles in passenger or 3800 miles in other regular service has been reached.

On road extra lists, sufficient engineers will be maintained to keep the average mileage, or equivalent thereof, between 2600 and 3800 miles per month; provided that when engineers are cut off the working list and it is shown that those on the extra lists are averaging the equivalent of 3100 miles per month, engineers will be returned to the extra lists if the addition will not reduce the average mileage, or the equivalent thereof, below 2600 miles per month.

Where separate extra lists are maintained for yard service, sufficient engineers will be maintained to keep the average earnings between 26 and 35 days per month; provided that when engineers are cut off the yard working list and it is shown that men are averaging the equivalent of 31 days per

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month, engineers will be returned to service if the addition will not reduce the average earnings below 26 days per month.

Note: As to mileage regulations affecting part-time men, see addendum to Article 43, pages 118-119-120.

Sec. 5. Upon arrival of each trip, firemen shall register their total mileage, or equivalent thereof, on the roundhouse register, showing separately freight and passenger mileage, giving total mileage each class of service to date at completion of each trip.

Within five days after the close of the month, or 30-day period, fireman will furnish in writing to the Superintendent, or his designated representative, and to the B. L. F. & E. Local Chairman under whose jurisdiction he is working, the total amount of mileage, or equivalent thereof, earned in the preceding month or 30-day period in each class of service, i. e., passenger, freight, yard or hostling.

When Superintendent, or his designated representative, is notified by Local Chairman in writing that a fireman has failed to furnish mileage statement for the preceding period, the fireman will not be called for service until such statement is furnished, except in emergency, when no other fireman is available.

Local Chairman shall be privileged to review and compare statements furnished Superintendents, or their designated representatives, by each fireman.

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showing total amount of mileage, or equivalent thereof, earned in preceding period, as set forth in second paragraph this section.

When a fireman has earned the maximum allowed mileage, or equivalent thereof, in a month or checking period, he will make request in writing to be relieved at the home terminal or layover point of his assignment. If the Company is unable to furnish relief and fireman is permitted to overrun the maximum allowed mileage, or equivalent thereof, in that month or checking period, he will, when relief is available and furnished, be held off his assignment in the following month one day for each 100 miles, or equivalent thereof, exceeded.

If fireman fails to make request for relief and continues in service after having earned the maximum allowed mileage, or equivalent thereof, for that month or 30-day period, he will, upon written request from Local Chairman, be held off his assignment in the following month two days for each 100 miles, or equivalent thereof, exceeded.

It is understood that in the application of the foregoing the Company will not be penalized for time claimed by reason of claimed impairment of seniority or deadheading when relief is furnished.

Note: In discussing Article 43, Section 5, present agreement, January 17, 1923, it was understood that Local Chairmen will have access to time books for the purpose of checking mileage made by firemen under this Section, excepting when timekeepers

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are using books to get out payrolls or distributions. It was also understood that timekeepers will give the Local Chairman whatever assistance they can during working hours which does not interfere with performing regular duties.

Further understanding reached July 18, 1925:

*When Superintendents or Roundhouse Foremen are notified by Local Committee in writing that firemen are neglecting or refusing to register their mileage as required by the rules, those so neglecting or refusing to register their mileage will not be called for service until they have complied with the rules, except in case of emergency when no other firemen are available. When officially notified by Local Chairmen that firemen have made necessary mileage specified in agreement covering the different classes of service, they will not be called for further service during that month unless some emergency makes their use necessary.

**Runarounds or time lost as a result of this understanding will not be allowed."

Sec. 6. In making reductions and replacing firemen upon the service lists, the same mileage shall apply as in the case of engineers.

Sec. 7. When depression in business or any other cause necessitates the reduction of the number of firemen in service, reductions shall be made by taking off firemen in reverse order of seniority.

Sec. 8. When depression in business or any other

(Plaintiff's Exhibit No. 2 continued)

cause necessitates the reduction of the number of firemen in service, those taken off will retain all seniority rights and be returned to service in the order of their seniority; provided they promptly furnish the Company their address, in writing, copy to Local Chairman of the seniority district, as well as any subsequent change of address; and further provided they return to service within thirty days from the date their services are required and no physical disability incapacitating them for service has been incurred during their absence.

Sec. 9. A fireman having lost his run by reason of it having been discontinued or having been taken by a fireman his senior, or for any reason brought about through no fault or action of his own, shall be entitled to take any run on the same seniority district held by a fireman his junior in seniority; provided he exercises such privilege by making a trip on the run of his choice within 15 days following actual loss of run, unless prohibited by sickness or leave of absence, or is holding an assignment under Section 4, Article 23; Section 11, Article 29; or Section 9, Article 37.

A fireman having displacement under this section cannot thereafter make such displacement on a run on which he had an opportunity to bid, following loss of run, unless prevented by sickness or leave of absence.

Firemen making written request on Roundhouse Foreman to go on extra list, or fireman assigned

(Plaintiff's Exhibit No. 2 continued)

under rules in effect to an extra list and who may be displaced therefrom, may exercise his seniority rights in the same manner as a fireman who has lost a regular assignment, taking any run held by a fireman his junior.

In the exercise of seniority rights under this section, fireman will use road date for road runs and yard date for yard positions, except when a reduction of the working list will result in his being cut off the working list, in which event he will be privileged to use his prior service date as a fireman with the company, to work on any unassigned extra list; and if his prior service date will not permit him to work on an unassigned extra list, he will be permitted to use such prior service date to displace any fireman his junior holding a regular assignment in either road or yard service, or on an assigned extra list.

Examples.

	Road Date	Yard Date
Fireman A	Jan. 1, 1915	Jan. 1, 1912
Fireman B	Jan. 1, 1913	Dec. 1, 1918
Fireman C	Dec. 15, 1912	Dec. 1, 1918

Position in road service is bulletined and bid in by Firemen A, B and C. Fireman C with road date of December 15, 1912, would be the senior applicant.

Position in yard service is bulletined and bid in by Firemen A, B and C. Fireman with yard date of January 1, 1912, would be the senior applicant.

Firemen A, B and C are working on an extra list

(Plaintiff's Exhibit No. 2 continued)

which is reduced two men, which results in firemen's working list being reduced two men. Firemen B and C would be cut off, account Fireman A having a prior service date with the Company.

Firemen A, B and C are the senior firemen on reduced or cut-off list. Two firemen are to be restored to the working list for service on extra list. Firemen A and C would be restored account having an earlier service date with the Company than Fireman B.

Fireman A holds position on extra list and Firemen B and C are assigned to road jobs. Extra list is reduced resulting in Fireman A being cut off working list. He, Fireman A, would be entitled to use his prior service date with the Company and displace either Fireman B or C.

Note: In making displacements in all pool freight service, the junior assigned man will be displaced.

Question: How will displacement be handled under following circumstances?

(a) Junior fireman is away from home terminal in service.

(b) Junior fireman is standing first-out on board; (call for service not yet placed).

(c) Junior fireman is standing first-out and has been called for service.

Answer:

(a) Fireman making displacement will be placed at foot of pool board and junior fireman

(Plaintiff's Exhibit No. 2 continued)

released and space eliminated when he arrives at home terminal of pool.

(b) Fireman making displacement will be placed at foot of pool board and space held by junior fireman standing first out eliminated.

(c) Junior fireman will depart on call. Fireman making displacement placed at foot of pool board and junior fireman released on return to home terminal of pool and space eliminated.

ARTICLE 44.

Temporary Transfer of Firemen.

Sec. 1. When there is a surplus of firemen on any seniority district, such firemen desiring to accept temporary employment on another seniority district under the jurisdiction of this agreement may, if they so elect, file application with the Master Mechanic of such district.

Sec. 2. Firemen thus transferred will hold temporary rights on the district to which they are transferred, dating from the time of their first trip thereon; provided, they shall not lose any seniority rights on their home district if they return upon proper notification of division officials. Such firemen shall be privileged to return to their home district before additional men are hired for firing service.

Note: Question (a) and Answer thereto under Section 1, Article 31, with respect to deadheading applies to this Article.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 45.

Layovers at Home Terminals.

Sec. 1. Firemen will be allowed as much of their layovers as possible at terminals where shops are located or where a majority of the firemen on the runs reside, without detriment to the service or expense to the Company.

Sec. 2. Firemen who are on the working list, either regularly assigned or extra, will be granted two free billings of their household effects per year when changing from one point to another on their respective divisions.

ARTICLE 46.

Firemen Entitled to Rest.

Sec. 1. No fireman shall be required to be on duty when he needs rest, nor shall a fireman be permitted to run on the road when his physical ability has been fairly taxed by previous service before he has had needed rest.

Sec. 2. When a fireman feels that he needs rest he must so indicate, in writing, on the roundhouse or other register at the time he registers his arrival, giving the number of hours he requires, which must be eight, ten or twelve hours.

ARTICLE 47.

Leave of Absence.

Sec. 1. Committeemen representing employees governed by the provisions of this agreement will

(Plaintiff's Exhibit No. 2 continued)

be granted leave of absence and furnished transportation without unnecessary delay.

Sec. 2. Any employee holding seniority rights on any district under the provisions of this agreement, accepting an official position with this Company, or being exclusively employed by the Brotherhood of Locomotive Firemen and Enginemen, in either case retains his seniority rights.

Sec. 3. Any employee covered by the provisions of this agreement, having been in the service of the Company for a period of five years or more, may be granted leave of absence for one year, and shall retain his seniority rights, provided he does not accept a position with any other railroad or engage in business which would interfere with his standing as an employee of this Company. When such leave of absence is granted an employee, his run shall be bulletined. Upon his return to service he shall be privileged to displace any man his junior in the service in which he holds rights.

ARTICLE 48.**Cleaning Engines and Other Duties.**

Sec. 1. Firemen shall be relieved of all cleaning of engines.

Sec. 2. Firemen shall not be required to do work that should be properly included in the duties of trainmen.

Sec. 3. Firemen shall not be required to set up wedges, fill grease cups, or clean headlights at points

(Plaintiff's Exhibit No. 2 continued)

where roundhouse force is employed. Neither will they be required to place on or remove tools or supplies from locomotives, fill lubricators, flange oilers, headlights, markers or other lamps at points where roundhouse force or engine watchman is employed.

ARTICLE 49.

Breaking Coal for Use and Assistance for Firemen.

Sec. 1. Coal shall be broken at coaling stations to a convenient size for firing before being placed on locomotives.

Sec. 2. On coal-burning locomotives, either passenger or freight, coal will be shoveled forward at specified points, whenever necessary, or by men riding on locomotives for that purpose, so that it can be reached from deck of the locomotive.

Sec. 3. It is understood that the Committees will take up with the officials the question of shoveling coal forward on tenders and determine the points where men shall be located to do this work.

ARTICLE 50.

Responsibility for Damages.

Firemen, helpers, hostlers or hostler helpers shall not be required to pay fines for breakages, loss of tools or damage of any kind.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 51.

Adjustment of Differences.

Sec. 1. The right of any engineer, fireman, hostler or hostler helper to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule, involved, is conceded.

Sec. 2. Local Grievance Committees of the Brotherhood of Locomotive Firemen and Engine-men shall be recognized by Division Officials in the adjustment of all local grievances of employees governed by the provisions of this agreement; if not satisfactorily adjusted, an appeal may be taken through their General Chairman to the General Officials.

This Section outlines mode of procedure to follow in appealing cases and Local Chairman should comply with same literally.

Sec. 3. No employee governed by the provisions of this agreement shall be suspended or discharged, except in serious cases where fault is apparent beyond reasonable doubt, until he has had a fair and impartial hearing before the proper officials. Ordinarily such hearing will be held within five days from date of suspension.

Sec. 4. In all cases where a formal investigation is held the employee under investigation will be

(Plaintiff's Exhibit No. 2 continued)

entitled to representation by the Local Chairman of his Organization or by any employee of the same grade in actual service on the employee's seniority district.

Sec. 5. Interrogations will be made by the Superintendent, or his representative, who is holding the investigation. After he has completed the direct examination, officers of the Company who may be attending the investigation will be allowed to interrogate the witness.

If the employee's representative desires to ask any questions pertaining to the case of the man represented he will be allowed that privilege.

Sec. 6. Demerits will not be charged against a man's record without giving him an opportunity for defense, allowing him to present his side of the case.

Sec. 7. If the Chairman of the Local Committee requests a transcript of the testimony in an investigation that has been made, it will be furnished.

Note: It is understood the above rules cannot be construed to have been properly observed unless the employee and/or his representative are confronted with all the charges and evidence and provided with a copy of transcript of all evidence.

Sec. 8. If charges are not sustained, fireman, hostler or hostler helper shall be reinstated and paid \$4.52 for each calendar day held out of service.

Sec. 9. Where charges are made regarding firemen, helpers, hostlers or hostler helpers, same must be in writing.

(Plaintiff's Exhibit No. 2 continued)

Sec. 10. When time claimed on trip cards is not allowed, the fireman, hostler or hostler helper interested will be promptly notified in writing by the Superintendent why said time was not allowed.

Sec. 11 (a). In case the Brotherhood of Locomotive Firemen and Enginemen's Local Committee is unable to agree with Division Officials as to the interpretation of articles in this agreement, the matter will be submitted to the General Manager, or his authorized representative, for decision; copy of the decision to be furnished the General Chairman of the Firemen's General Grievance Committee.

(b) When claims are presented to the Superintendent by the Local Chairman, the latter will submit a statement of facts in the case and refer to schedule rule or settlement on which the Organization bases its claim. If the claim is not allowed by the Superintendent, he will furnish the Local Chairman with a statement of facts and reasons why claim is not allowed. If conference is desired by the Organization, same will be granted without unnecessary delay. If claim is not disposed of in conference, the Superintendent, or his representative, and the Local Chairman should prepare a joint statement of facts addressing same jointly to the General Manager, or his representative, and the Chairman of the General Committee, B. of L. F. & E. If Superintendent and Local Chairman fail to agree on a joint statement of facts, they will prepare separate statements, setting forth their contentions. It

(Plaintiff's Exhibit No. 2 continued)

is understood no argument should be used in the statement of facts.

Sec. 12. Committeemen will not be discriminated against for serving on committees representing employees governed by the provisions of this Agreement.

Sec. 13. When readjustment of runs is to be made, the matter will be taken up for adjustment upon application of the firemen through their Local Grievance Committee.

Sec. 14. Firemen, hostlers, or hostler helpers dismissed from the service of the Company and subsequently reinstated will be permitted to make displacement under the provisions of Article 43, Section 9.

Sec. 15. Where settlements are made in adjustment of certain claims, other claims that are of similar nature can usually be adjusted on the same basis, and so far as similarity of conditions will permit, this will be done.

Sec. 16. Applicants for employment entering the service shall be accepted or rejected within ninety (90) days after the applicant begins work. When applicant is not notified to the contrary within the time stated, it will be understood that the applicant becomes an accepted employee, but this rule shall not operate to prevent the removal from service of such applicant, if subsequent to the expiration of ninety (90) days it is found that information given by him in his application is false.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 52.**Two Firemen.**

When a second fireman is deemed necessary on coal-burning locomotives in freight service weighing more than 200,000 pounds on drivers, the matter will be taken up with the management by the Committee. Failing to reach a settlement, the matter shall be referred to an Adjustment Commission to be composed of five (5) persons, two (2) of whom are to be chosen by the Railroad Company, two (2) by the Committee, and one (1) to be selected by the four (4) thus chosen; who shall be the Chairman of the Commission. Should the four men fail to agree on the fifth, then three days after the last of the four men have been selected, the fifth man shall be named by the National Mediation Board. If, for any reason, the selection of the fifth man cannot be made by the National Mediation Board, he shall be named by the United States District Judge of the district in which the controversy may have arisen. All expenses incurred in connection with the settlement of such matters shall be borne equally by the two parties to the controversy.

ARTICLE 53.**Official Record of Weight on Drivers.**

Sec. 1. For the purpose of officially classifying locomotives, the Company will keep bulletins at all terminals showing actual weight on drivers of all

(Plaintiff's Exhibit No. 2 continued)

locomotives in the service. It is the understanding the weight on drivers refers to weight on drivers of locomotives in working condition, which would include "sand" in the sand box, "water" in the boiler, and "fire" in the fire box.

Sec. 2. Where locomotive is equipped with trailer truck booster, or where locomotive is equipped with tender booster, total weight on truck so equipped will be added to weight on drivers. Total weights produced by such increased weights shall fix the rates for the respective classes of service.

ARTICLE 54.

Vouchers.

When shortages of \$2.50 or over are established, vouchers will be issued to cover; shortages of less than \$2.50 will be carried on following payroll. Where the fault of such shortage rests with the fireman, hostler or hostler helper, same will be carried to next payroll regardless of the amount.

ARTICLE 55.

Service Letters.

Employees covered by the provisions of this agreement, leaving the service for any cause, will be furnished service letter on request, regardless of length of service.

(Plaintiff's Exhibit No. 2 continued)

ARTICLE 56.**Meals En Route.**

Firemen will be given a reasonable time to eat between terminals if hours on duty make it necessary or conditions of service permit.

When men desire to eat, both the train and engine crews should eat at the same point, notifying the dispatcher in advance where they intend to do so. Where crews stop for this purpose they will reduce the time of such delay to the minimum.

ARTICLE 57.**Correspondence.**

Correspondence will receive attention of officials and reply made as promptly as possible.

Conferences will be given with as little delay as possible.

ARTICLE 58.**Rules Governing Handling and Compensating Firemen Under the Federal Hours of Service Law.**

Sec. 1. Under the laws limiting the hours on duty, crews in road service will not be tied up unless it is apparent that the trip cannot be completed within the lawful time; and not then, until the expiration of fourteen hours on duty under the Federal law, or within two hours of the time limit provided by State laws, if State laws govern.

Sec. 2. If road crews are tied up in a less number of hours than provided in the preceding para-

(Plaintiff's Exhibit No. 2 continued)

graph, they shall not be regarded as having been tied up under the law, and their services will be paid for under the individual schedules of the different roads.

Sec. 3. When road crews are tied up between terminals under the law, they shall again be considered on duty and under pay immediately upon the expiration of the minimum legal period off duty applicable to the crew, provided, the longest period of rest required by any member of the crew, either eight or ten hours, to be the period of rest for the entire crew.

Sec. 4. A continuous trip will cover movement straightaway or turnaround, from initial point to the destination train is making when ordered to tie up. If any change is made in the destination after the crew is released for rest a new trip will commence when the crew resumes duty.

Sec. 5. Firemen in train service tied up under the law will be paid continuous time from initial point to tie-up point. When they resume duty on continuous trip, they will be paid from tie-up point to terminal on the following basis: For fifty (50) miles or less, or four (4) hours or less, one-half day; for more than fifty (50) miles, or more than four (4) hours, actual miles or hours, whichever is the greater, with a minimum of one day. It is understood that this does not permit running firemen through terminals or around other firemen at

(Plaintiff's Exhibit No. 2 continued)

terminals unless such practice is permitted under the pay schedule.

Question: Does minimum allowance of 50 miles for movement from tie-up point to terminal as specified in Section 5, Article 58, apply to cases where crews tie up under Hours of Service Law at a point within the yard limits of terminal yard?

Decision: Crews tying up under law within terminal yard limits and before reaching station mile board, shall be paid under provisions of these Sections and Articles, but these provisions will not apply to crew tied up after passing station mile boards. At stations where mile boards not provided, location or designated point agreed upon will govern.

Sec. 6. Road crews tied up for rest under the law and then towed or deadheaded into terminal, with or without engine or caboose, will be paid therefor as per Section 5, the same as if they had run the train to such terminal.

Sec. 7. If any service is required of an engine crew, or if held responsible for the engine, during the tie-up under the law, they will be paid for all such service.

Sec. 8. The foregoing Sections constitute an agreement for the Railway Companies named in the original memorandum and their Conductors, Trainmen, Engineers and Firemen, as to runs that are tied up in conformity with the law, and becomes a part of the schedules or agreements of these roads.

(Plaintiff's Exhibit No. 2 continued)

and subject to their provisions as to amendment by mutual consent. Nothing herein contained shall be construed to amend or annul any rule in the various agreements with individual roads.

End of Article 58.

General.

Question 57, Interpretation No. 1, Supplement No. 24:

Should all service, both passenger and freight, formerly paid on a monthly, daily, or trip basis, be established upon the mileage basis and paid the rates provided regardless of the fact that this may in some cases effect a reduction in present compensation?

Decision: Rates of the order shall apply for the respective classes of service, but former higher rates shall be retained.

Question 64, Interpretation No. 1, Supplement No. 24:

Where daily rates are in excess of standard, how shall overtime rates be determined?

Decision: Service paid on a passenger basis, one-eighth of such daily rate, per hour. Service paid on the freight basis, $3/16$ of such daily rate, per hour.

ARTICLE 10 (c), SUPPLEMENT No. 24.

Special provisions of schedules for irregular conditions, such as crews called and not used, dead-heading, attending court and investigations, and similar miscellaneous rules covering conditions

(Plaintiff's Exhibit No. 2 continued)

which are not connected with the handling of a train and which provide for payments on the basis of "overtime rates," shall be changed to provide for payments at the former rates, it being the intent that the time and one-half basis shall not apply in such cases. Where, under such rules, time, in excess of the limits of the day is paid for as overtime, the overtime rates of this order apply.

Question 71, Interpretation No. 1, Supplement No. 24:

Are special allowances based on, say, 30 minutes or less not to count; over 30 minutes one hour, changed to a minute basis by paragraph (b) of Article 7?

Decision: No. The Supplement provides the minute basis only in connection with road overtime.

Understandings Between General Committees and Management.

ARTICLE 29.

Hostlers and Hostler Helpers.

Following agreement reached between General Committee of Adjustment, Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, and Southern Pacific Company (Pacific Lines), in connection with division of hostling service between engineers and firemen, Oakland and Alameda Piers, superseding understanding reached January 17, 1928, signed by Mr.

(Plaintiff's Exhibit No. 2 continued)

P. O. Peterson, General Chairman, B. L. E.; Mr. J. A. Ford, former General Chairman, B. L. F. & E., and Mr. R. McIntyre, Assistant to General Manager, Southern Pacific Company, also superseding letter April 11, 1931, to Mr. P. O. Peterson, General Chairman, B. L. E., signed by Mr. R. McIntyre; revising paragraph (3) of said agreement, January 17, 1928;

(1) Two hostler positions at Oakland Pier, assigned from 12:40 P. M. to 8:40 P. M. and 4:40 P. M. to 12:40 A. M., and one hostler position at Alameda Pier, assigned from 6:20 A. M. to 2:20 P. M., will be filled by the three senior engineers making application, in accordance with Section 3, Article 33, Engineers' Agreement; and will perform same duties performed by hostlers.

Three positions herein referred to will be paid yard engineers' rates; but Article 29, and interpretations thereon, Firemen's Agreement, will govern their working conditions.

(2) Engineers before being assigned to this service will qualify as outlined in Section 3, Article 17, Engineers', and Article 29, Article 30, Section 4, Firemen's Agreements, and will not be displaced for a period of six months; neither will such engineers be privileged to exercise their seniority in bidding into vacancies or new positions for a period of six months (unless cut off working list) and will remain on assignments during life of bulletin and until their relief qualifies. Should these men be

(Plaintiff's Exhibit No. 2 continued)

used in emergency to handle train, they will be paid minimum passenger guarantee.

(3) Vacancies on the above positions, i. e., Oakland and Alameda Piers, will be filled by engineers from the road extra list, who will be required to familiarize themselves with the movements and duties of hostlers in order that they may perform their duties satisfactorily, and will be paid yard engineers' rate of pay and remain on such positions until the regular hostler returns to work or they are relieved by regular man assigned by bulletin. If vacancy is for a period of seven days or over, the extra engineer filling the vacancy will be permitted, after the seventh day, to return to road extra list if he makes application in writing to do so and provided there is a qualified extra engineer available on road extra list to relieve him. All engineers on the road extra list, who have not qualified for electric service, shall do so.

(4) Should the hostler force be reduced, the following formula will govern:

Present assignment (7 positions)	4 hostlers	3 engineers
Reduction in force	1 hostler	
Assignment (6 positions)	3 hostlers	3 engineers
Reduction in force		1 engineer
Assignment (5 positions)	3 hostlers	2 engineers
Reduction in force	1 hostler	
Assignment (4 positions)	2 hostlers	2 engineers
Reduction in force		1 engineer
Assignment (3 positions)	2 hostlers	1 engineer
Reduction in force	1 hostler	

(Plaintiff's Exhibit No. 2 continued)

Assignment (2 positions).....	1 hostler	1 engineer
Reduction in force.....		1 engineer
Assignment (1 position).....	1 hostler	0
Reduction in force.....	1 hostler	

The above agreement shall remain in effect until either party desiring to change any of the foregoing shall have given the other parties thirty days' notice in writing of the change or changes desired. Conferences shall be arranged by Management as soon as practicable following expiration of such notice.

For the Organizations:

(Signed) P. O. PETERSON,

General Chairman, B. L. E.

(Signed) C. W. MOFFITT,

Acting General Chairman,

B. L. E. & E.

For the Southern Pacific Company (Pacific Lines):

(Signed) R. McINTYRE,

Assistant to General Manager.

Dated at San Francisco, Calif.,

August 12, 1932.

ADDENDUM TO ARTICLE 43: APPLICATION OF MILEAGE REGULATIONS TO PART- TIME MEN.

Excerpts from letter of November 30, 1934, from Mr. Wm. M. Leiserson, Chairman, National Mediation Board, to Mr. A. Johnston, Grand Chief Engineer, Brotherhood of Locomotive Engineers, Mr. D. B. Robertson, President, Brotherhood of Loco-

(Plaintiff's Exhibit No. 2 continued)

motive Firemen and Enginemen, Mr. J. A. Phillips, President, Order of Railway Conductors, and Mr. A. F. Whitney, President, Brotherhood of Railroad Trainmen, concerning the application of mileage regulations to part-time men, the conditions of which were, before the President's Emergency Board of April-May, 1937, accepted by Mr. G. W. Laughlin, First Assistant Grand Chief Engineer, Brotherhood of Locomotive Engineers, and Mr. C. V. McLaughlin, Vice President, Brotherhood of Locomotive Firemen and Enginemen, and concurred in by the Carrier, as disposing of Case No. 11 that was pending before that Board:

"We understand also from your conversation with respect to part-time men, whether they be engineers and firemen or conductors and trainmen, a sound and practical basis for adjustment would be to permit each organization to regulate the conditions of the part-time man during the time that these men are employed at the occupation covered by such organization. Thus if the mileage limitation on any road was 3300 miles for firemen and 3800 miles for engineers, a man in freight service making 1500 miles as a fireman, then used as emergency engineer for 500 miles, would be permitted to make only 1300 additional miles as a fireman; or a man making 2000 miles as an extra engineer who is cut off the engineer's extra board, would be permitted to make only 1300 additional miles as a fireman. On the other hand, a

(Plaintiff's Exhibit No. 2 continued)

fireman who has made his maximum mileage of 3300 miles and has been taken off on that account, might be used as an emergency engineer or go on the engineers' extra board for the remainder of the month, to make the additional 500 miles up to 3800 in accordance with the engineers' mileage limitation."

"We understood from the discussions also that nothing in such a regulation of the part-time men would prevent any organization from regulating the mileage of its own men by adjustment at the end of each month or checking period, in order to offset any excess mileage that an individual may have made. That is to say, if a trainman had made 400 extra miles as an emergency conductor in any one month or checking period, and if at the end of that month or checking period he was working as a trainman, the trainmen's organization would have authority to regulate him to bring his mileage within the trainmen's limitation. If, on the other hand, the man was working as a conductor at the end of the month or checking period, he would be subject to the regulation of the conductors' organization. The point, as we understood it, was that each organization would be free to make adjustment for excess mileage of the men under its jurisdiction to bring them within the mileage limitations set by that organization. And the fact as to whether

(Plaintiff's Exhibit No. 2 continued)

a man was subject to the jurisdiction of one organization or another would be established by the craft that he was working in at the end of the month or checking period."

ARTICLE 59.

Changing Agreement.

Sec. 1. This agreement is made subject to any subsequent Municipal, State or Federal legislation.

Sec. 2. This agreement shall remain in effect until either party desiring to change any of the foregoing rules or regulations shall have given to the other party thirty days' notice in writing of the change or changes desired. Conference to be granted as soon as practicable following expiration of such notice.

Sec. 3. All previous agreements are hereby annulled.

Dated at San Francisco, Calif., June 1, 1939.

For the Southern Pacific Company (Pacific Lines):

L. B. McDONALD

General Manager.

For the Brotherhood of Locomotive Firemen and Enginemen:

C. W. MOFFITT

General Chairman.

C. G. HOLMBERG

First Vice Chairman.

W. W. McARTHUR

Secretary-Treasurer.

(Plaintiff's Exhibit No. 2 continued)

TABLE SHOWING TIME AFTER WHICH OVERTIME
ACCRUES ON RUNS 100 MILES TO 199 MILES
IN LENGTH, ON SPEED BASIS OF 12½ MILES
PER HOUR.

Distance, miles	Overtime accrues after hours	Distance, miles	Overtime accrues after hours
100	8:00	132	10:34
101	8:05	133	10:38
102	8:10	134	10:43
103	8:14	135	10:48
104	8:19	136	10:53
105	8:24	137	10:58
106	8:29	138	11:02
107	8:34	139	11:07
108	8:38	140	11:12
109	8:43	141	11:17
110	8:48	142	11:22
111	8:53	143	11:26
112	8:58	144	11:31
113	9:02	145	11:36
114	9:07	146	11:41
115	9:12	147	11:46
116	9:17	148	11:50
117	9:22	149	11:55
118	9:26	150	12:00
119	9:31	151	12:05
120	9:36	152	12:10
121	9:41	153	12:14
122	9:46	154	12:19
123	9:50	155	12:24
124	9:55	156	12:29
125	10:00	157	12:34
126	10:05	158	12:38
127	10:10	159	12:43
128	10:14	160	12:48
129	10:19	161	12:53
130	10:24	162	12:58
131	10:29	163	13:02

(Plaintiff's Exhibit No. 2 continued)

Distance, miles	Overtime accrues after hours	Distance, miles	Overtime accrues after hours
164	13:07	182	14:34
165	13:12	183	14:38
166	13:17	184	14:43
167	13:22	185	14:48
168	13:26	186	14:53
169	13:31	187	14:58
170	13:36	188	15:02
171	13:41	189	15:07
172	13:46	190	15:12
173	13:50	191	15:17
174	13:55	192	15:22
175	14:00	193	15:26
176	14:05	194	15:31
177	14:10	195	15:36
178	14:14	196	15:41
179	14:19	197	15:46
180	14:24	198	15:50
181	14:29	199	15:55

(Plaintiff's Exhibit No. 2 continued)

TABLE SHOWING TIME AND ONE-HALF FOR OVERTIME (18 $\frac{1}{2}$ MILES PER HOUR) EXPRESSED IN MILES FROM 3 MINUTES TO 8 HOURS, INCLUSIVE

Overtime	Miles	Overtime	Miles	Overtime	Miles
3	1	1:52	35	3:41	69
6	2	1:55	36	3:44	70
10	3	1:58	37	3:47	71
13	4	2:02	38	3:50	72
16	5	2:05	39	3:54	73
19	6	2:08	40	3:57	74
22	7	2:11	41	4:00	75
26	8	2:14	42	4:03	76
29	9	2:18	43	4:06	77
32	10	2:21	44	4:10	78
35	11	2:24	45	4:13	79
38	12	2:27	46	4:16	80
42	13	2:30	47	4:19	81
45	14	2:34	48	4:22	82
48	15	2:37	49	4:26	83
51	16	2:40	50	4:29	84
54	17	2:43	51	4:32	85
58	18	2:46	52	4:35	86
1:01	19	2:50	53	4:38	87
1:04	20	2:53	54	4:42	88
1:07	21	2:56	55	4:45	89
1:10	22	2:59	56	4:48	90
1:14	23	3:02	57	4:51	91
1:17	24	3:06	58	4:54	92
1:20	25	3:09	59	4:58	93
1:23	26	3:12	60	5:01	94
1:26	27	3:15	61	5:04	95
1:30	28	3:18	62	5:07	96
1:33	29	3:22	63	5:10	97
1:36	30	3:25	64	5:14	98
1:39	31	3:28	65	5:17	99
1:42	32	3:31	66	5:20	100
1:46	33	3:34	67	5:23	101
1:49	34	3:38	68	5:26	102

(Plaintiff's Exhibit No. 2 continued)

Overtime	Miles	Overtime	Miles	Overtime	Miles
5:30	103	6:21	119	7:12	135
5:33	104	6:24	120	7:15	136
5:36	105	6:27	121	7:18	137
5:39	106	6:30	122	7:22	138
5:42	107	6:34	123	7:25	139
5:46	108	6:37	124	7:28	140
5:49	109	6:40	125	7:31	141
5:52	110	6:43	126	7:34	142
5:55	111	6:46	127	7:38	143
5:58	112	6:50	128	7:41	144
6:02	113	6:53	129	7:44	145
6:05	114	6:56	130	7:47	146
6:08	115	6:59	131	7:50	147
6:11	116	7:02	132	7:54	148
6:14	117	7:06	133	7:57	149
6:18	118	7:09	134	8:00	150

[Endorsed]: Plaintiff's Exhibit, No. 2. Filed
10/10/40. Walter B. Maling, Clerk. By Harry L.
Fouts, Deputy Clerk.

PLAINTIFF'S EXHIBIT No. 7

RULES CONTAINED IN ENGINEERS' AND FIREMEN'S AGREEMENTS, SOUTHERN PACIFIC COMPANY (PACIFIC LINES), IN EFFECT VARIOUS PERIODS UP-TO-DATE, COVERING THE RIGHTS OF PROMOTED AND HIRED ENGINEERS TO TAKE ASSIGNMENTS AS FIREMEN BEFORE AND AFTER THE CHICAGO JOINT WORKING AGREEMENT MILEAGE REGULATION WAS SUBSCRIBED TO BY THE CHIEF EXECUTIVES OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, DATED MAY 17, 1913, AND REVISED MAY 4, 1918.

FIREMEN

ENGINEERS

Sec. 32 (a) and (b), Engineers' Agreement, effective January 1, 1903:

"(a) When there is a surplus of engineers for the business of the road, oldest engineers in point of seniority shall have preference for employment.

(b) Whenever it becomes necessary to reduce the force of engineers in road service, it shall be done by taking off engineers per the seniority list of the division taken in reverse order, and engineers thus taken from road service shall be privileged to take positions on switch engines and as hostlers as per their order of seniority; provided, that in so doing, they may not displace men.

Firemen's Agreement, effective April 1, 1907, appearing in back of Agreement under caption "Requests Granted":

Second—Effective March 18, 1908. When depression in business, or any other cause, necessitates

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

essitates a reduction of engineers' seniority lists, engineers thus taken off, according to their seniority, who have been promoted from ranks of firemen on division, may resume their former rights as firemen, and men returned to firing service on this account shall retain their seniority as engineers, provided they return to the higher grade of service in regular order, unless prevented by sickness or other good cause."

Sec. 36 (a), Firemen's Agreement, effective May 16, 1910:

"When depression in business, or any other cause, necessitates a reduction of engineers' road seniority lists, those taken off who have been promoted from the ranks of firemen on seniority district, may, if they so elect, resume their former seniority standing as firemen, and will retain all acquired seniority provided they return to the higher grade of service in regular order, unless prevented by sickness or other good cause."

ENGINEERS

old in the service, filling positions as switch engineers or hostlers, or men in such positions who are not considered in line of promotion to road service."

Art. 31, Sec. 5 (a), (b), (c) and (d), Engineers' Agreement, effective March 1, 1908:

"(a) When there is a surplus of engineers for the business of the district, the oldest engineer in point of seniority shall have preference for employment."

(b) When it becomes necessary to reduce the force of engineers in road service on any district, it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order; engineers thus set back from road service shall be placed on the road extra list. When it becomes necessary to reduce the force of engineers on the road extra list, it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order; engineers thus set back from road extra list shall have privilege to take positions in yard service, provided they do not displace engineers in yard service who are not in line of promotion to road service, and further provided, they do not displace engineers in yard service who are in line of promotion to

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

ENGINEERS

road service, whose seniority as yard engineer is greater than the seniority of the road engineer in both road and yard service combined.

(c) Road engineers taking positions in yard service on account of slack business, forfeit thereby no road seniority rights, provided return to road service is made in regular order of road engineers' seniority.

(d) The cases of engineers who are set back from extra list and left without employment and who may desire to accept temporary employment on other railroads pending opportunity to return to further service with this Company, such return to be within ten days' notice, men to lose no seniority by reason of acceptance of such other employment, will be taken up on their merits by Superintendent, in conjunction with Master Mechanics, and decided accordingly.

Art. 32, Sec. 5 (a), (b), (c) and (d), Engineers' Agreement, effective February 20, 1911:

(a) When there is a surplus of engineers for the business of the district, the oldest engineer in point of seniority shall have preference for employment.

(b) When it becomes necessary to reduce the force of engineers in road service on any district,

(Plaintiff's Exhibit No. 7 continued)

FIREMEN**ENGINEERS**

it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order; engineers thus set back from road service shall be placed on road extra list. When it becomes necessary to reduce the force of engineers on the road extra list, it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order; engineers thus set back from road extra list may be placed on an emergency list and shall have privilege to take positions in yard service, provided they do not displace engineers in yard service who are not in line of promotion to road service and further provided they do not displace engineers in yard service who are in line of promotion to road service, whose seniority in yard service is greater than the seniority of the road engineer in both road and yard service combined.

(c) Road engineers taking positions in yard service or being placed on emergency list on account of slack business, forfeit thereby no seniority rights, provided return to road service is made in regular order of road seniority.

(d) The cases of engineers who are set back from extra list and left without employment and who

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

ENGINEERS

may desire to accept temporary employment on other railroads pending opportunity to return to further service with this Company, such return to be within thirty days' notice, men to lose no seniority by reason of acceptance of such employment, will be taken up on their merits by Superintendent, in conjunction with Master Mechanic, and decided accordingly."

Art. 36(a), Firemen's Agreement, effective January 1, 1913:

Art. 32, Sec. 5 (a), (b), (c) and (d), Engineers' Agreement, effective December 1, 1912:

(Reads verbatim with provisions next above quoted.)

When depression in business or any other cause necessitates the reduction of the number of engineers in road service, those taken off who have been promoted from the ranks of firemen on the seniority district, may, if they so elect, resume their former standing as firemen, provided they return to firing service in reverse order of their seniority. Those thus returned to firing service will retain all acquired seniority, but must bid for or accept assignment to the higher grades of service in their order of seniority as engineers when opportunity offers or forfeit all seniority as firemen. In case such firemen are not available on account of sickness or are on leave of absence when opportunity to bid for or accept higher grades of service is offered, run as fireman will be bulletined on first

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

bulletin date, and upon reporting for duty they must accept such higher service.

Sec. 41 (a), Firemen's Agreement, effective May 11, 1915:

(Reads verbatim with provision next above quoted.)

ENGINEERS

Art. 32, Sec. 5 (a), (b) and (d), Engineers' Agreement, effective 1917:

"(a) Where there is a surplus of engineers for the business of the district, the oldest engineer in point of seniority shall have the preference for employment.

(b) When it becomes necessary to reduce the force of engineers in road service on any district, it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order; engineers thus set back from road service shall be placed on road extra list. When it becomes necessary to reduce the force of engineers on the road extra list, it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order.

(d) The cases of engineers who are set back from extra list and left without employment and who may desire to accept temporary employment on other railroads pending opportunity to return to

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

ENGINEERS

further service with this Company, such return to be within thirty days' notice, men to lose no seniority by reason of acceptance of such employment, provided no physical disability has been incurred during his absence."

CHICAGO JOINT AGREEMENT

between the

Brotherhood of Locomotive Engineers
and

Brotherhood of Locomotive Firemen
and Enginemen

May 17, 1913.

ARTICLE 11.

(a) When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working lists, those thus taken off, who have been promoted from the ranks of the firemen on any seniority district, may, if they so elect, displace any fireman their junior on that seniority district, under the following conditions:

First: That no reductions will be made so long as those in pooled or chain-gang freight service are averaging the equivalent of 3,000 miles per month; or, on the road extra list, are averaging the equivalent of 2,200 miles per month; or those on the extra list in switching service are averaging as much as 22 days per month.

(Plaintiff's Exhibit No. 7 continued)

Second: That when reductions are made, they shall be in reverse order of seniority.

(b) When hired engineers are laid off on account of reduction in service, they will retain all seniority rights; provided, they return to actual service within 30 days from the date their services are required.

(c) Engineers taken off under this rule shall be returned to service as engineers in the order of their seniority as engineers, and as soon as it can be shown that engineers in pooled or chain-gang freight service can earn the equivalent of 3,500 miles, or in extra service the equivalent of 2,600 miles per month.

(d) Under this rule it is understood that after all engineers who have been taken off have been returned to service as engineers, this rule shall not apply with respect to further additions.

(e) It shall be the policy of both organizations, when working jointly, to insist upon having a guaranteed monthly wage of not less than \$100 for all extra engineers and not less than \$65 for all extra firemen retained in service; and when a minimum wage is guaranteed no reductions in the force will be insisted upon by either organization.

Note: In making reductions and replacing firemen upon the service lists, the same mileage shall apply as in the case of engineers, except that the rules shall not apply to firemen in switching service.

(Plaintiff's Exhibit No. 7 continued)

Mileage regulations set forth in the Chicago Joint Working Agreement, as above quoted, were not incorporated in either the Engineers' Agreement of 1917 or the Firemen's Agreement of May 11, 1915. However, these mileage regulations were later revised by the Chief Executives of the two Engineers' Organizations, i.e., on May 4, 1918, and were incorporated in the Engineers' Agreement effective October 1, 1918, and the Firemen's Agreement effective December 1, 1918, as follows:

FIREMEN

Sec. 42 (a), (b), (c), (d) and (e).
Firemen's Agreement, effective
December 1, 1918:

(a) When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working list on any seniority district, those taken off may, if they so elect, displace any fireman their junior on that seniority district under the following conditions:

First: That no reductions will be made so long as those in assigned or extra passenger service are earning the equivalent of 4000

ENGINEERS

Art. 32, Sec. 5 (a), (b), (c), (d), (e), (f) and (g), Engineers' Agreement, effective October 1, 1918:

(a) Where there is a surplus of engineers for the business of the district, the oldest engineer in point of seniority shall have the preference for employment.

(b) When it becomes necessary to reduce the force of engineers in road service on any district, it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order; engineers thus set back from road service shall be placed on road extra list. When it becomes necessary to reduce the force of engineers on the road extra list, it shall be done by taking off engineers per engineers' road seniority list of such district, taken in reverse order under the following conditions:

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

miles per month; in assigned, pooled or chain-gang freight, or other service paying freight rates, are averaging the equivalent of 3200 miles per month; on the road extra list are averaging the equivalent of 2600 miles per month, or those on the extra list in switching service are averaging 26 days per month.

Second: That when reductions are made they shall be in reverse order of seniority.

(b) When hired engineers are laid off on account of reduction in service, they will retain all seniority rights; provided, they return to actual service within 30 days from the date their services are required.

(c) Engineers taken off under this rule shall be returned to service as engineers in the order of their seniority as engineers, and as soon as it can be shown that engineers in assigned or extra passenger service can earn the equivalent of 4800 miles per month; in assigned, pooled, chain-gang or other regular service pay-

ENGINEERS

That no reductions will be made so long as those in assigned or extra passenger service are earning the equivalent of 4000 miles per month in assigned, pooled or chain gang freight, or other service paying freight rates, are averaging the equivalent of 3200 miles per month; on the road extra list are averaging the equivalent of 2600 miles per month, or those on the extra list in switching service are averaging 26 days per month.

(d) The cases of engineers who are set back from extra list and left without employment and who may desire to accept temporary employment on other railroads pending opportunity to return to further service with this Company, such return to be within thirty days' notice, men to lose no seniority by reason of acceptance of such employment, provided no physical disability has been incurred during his absence.

(e) Engineers taken off under this rule shall be returned to service as engineers in the order of their seniority as engineers, and as soon as it can be shown that engineers in assigned or extra passenger service can earn the equivalent of 4800 miles per month; in assigned, pooled, chain-gang or other regular service pay-

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

ing freight rates, the equivalent of 3800 miles per month, or in extra service the equivalent of 3000 miles per month.

(d). In the regulation of passenger or other assigned service, sufficient men will be assigned to keep the mileage or equivalent thereof within the limitation of 4000 and 4800 miles for passenger and 3200 and 3800 miles for other regular service, as provided herein. If, in any service, additional assignments would reduce earnings below these limits, regulation will be effected by requiring the regular assigned man or men to lay off when the equivalent of 4800 miles in passenger or 3800 miles in other regular service has been reached.

(e) Under this rule it is understood that after all engineers who have been taken off have been returned to service as engineers, this rule shall not apply with respect to further additions."

Art. 43, Sec. 1, 2, 3 and 4, Firemen's Agreement, effective January 1, 1919:

(Read verbatim with provisions next above quoted, except that Para. (e) was dropped.)

ENGINEERS

ing freight rates, the equivalent of 3800 miles per month, or in extra service the equivalent of 3000 miles per month.

(f) In the regulation of passenger or other assigned service, sufficient men will be assigned to keep the mileage or equivalent thereof within the limitation of 4000 and 4800 miles for passenger and 3200 and 3800 miles for other regular service, as provided herein. If, in any service, additional assignments would reduce earnings below these limits, regulation will be effected by requiring the regular assigned man or men to lay off when the equivalent of 4800 miles in passenger or 3800 miles in other regular service has been reached.

(g) Under this rule it is understood that after all engineers who have been taken off have been returned to service as engineers, this rule shall not apply with respect to further additions."

Art. 32, Sec. 5 (b), (c), (e), (f), (g) and (h), Engineers' Agreement, effective January 1, 1919:

(Read verbatim with provisions next above quoted.)

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

Art. 43, Sec. 1, 2, 3 and 4, Firemen's Agreement, effective December 29, 1922:

(Read verbatim with provisions next above quoted, excluding former Para. (e).)

Art. 43, Sec. 1, 2, 3 and 4, Firemen's Agreement, effective September 1, 1924:

(Read verbatim with provisions next above quoted, excluding former Para. (e).)

Art. 43, Sec. 1, 2, 3 and 4, Firemen's Agreement, effective May 1, 1929:

(Read verbatim with provisions next above quoted, excluding former Para. (e).)

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Art. 32, Sec. 5 (b), (c), (e), (f) and (g), Engineers' Agreement, effective December 1, 1919:

(Read verbatim with provisions next above quoted, except that Para. (h) was dropped.)

Art. 32, Sec. 5 (b), (c), (e), (f) and (g), Engineers' Agreement, effective December 29, 1922:

(Read verbatim with provisions next above quoted, excluding former Para. (h).)

Art. 32, Sec. 5 (b), (c), (e), (f) and (g), Engineers' Agreement, effective September 1, 1924:

(Read verbatim with provisions next above quoted, excluding former Para. (h).)

Following is agreement between the Management of the Southern Pacific Company (Pacific Lines) and the Brotherhood of Locomotive Firemen and Enginemen in connection with certain changes in mileage regulation for engineers, then in mediation between the Southern Pacific Company and the

(Plaintiff's Exhibit No. 7 continued)

Brotherhood of Locomotive Engineers, our approval thereof being contingent on the assurance that "none of the rights accorded the Brotherhood of Locomotive Firemen and Enginemen under said agreement of May 1, 1929, which is still in effect, have been, or will be, abridged, annulled or restricted by the mediation settlement:"

San Francisco, Calif.,

October 30, 1930.

Mr. Albert Phillips, Vice President,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

Mr. W. E. Jones, General Chairman,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

Gentlemen:

As you know we are now in mediation with the Brotherhood of Locomotive Engineers over certain matters growing out of the abrogation of the Chicago Joint Working Agreement. It appears that we shall be able to settle the matters in dispute provided—

(a) Mileage for extra engineers is regulated between 2600 and 3800 miles per month with a 3100 mile replacement feature, and

(b) For extra yard engineers the days per month to be regulated between 26 and 35, with a 31 day replacement feature.

(Plaintiff's Exhibit No. 7 continued)

Confirming discussion with you gentlemen, it is desired that you agree to incorporating the changes (a) and (b) above mentioned in the Firemen's Agreement of May, 1929, between Southern Pacific Company (Pacific Lines) and the Brotherhood of Locomotive Firemen and Enginemen, same to be effective November 16, 1930. Please advise if you will be agreeable to so doing.

Yours truly,

(Signed) F. L. BURCKHALTER

General Manager

Southern Pacific Company

San Francisco, Calif.,

October 30, 1930.

Mr. F. L. Burckhalter,

General Manager,

Southern Pacific Company,

San Francisco, Calif.

Dear Sir:

We have for acknowledgment yours of even date, with regard to mediation with the Brotherhood of Locomotive Engineers, wherein you state—

It appears that we shall be able to settle the matters in dispute provided—

(a) Mileage for extra engineers is regulated between 2600 and 3800 miles per month with a 3100 mile replacement feature, and

(Plaintiff's Exhibit No. 7 continued)

(b) For extra yard engineers the days per month to be regulated between 26 and 35, with a 31 day replacement feature.

As stated to you in conference, we are agreeable to incorporating the proposed changes (a) and (b), above quoted, in the Firemen's Agreement of May 1, 1929, same to be effective November, 16, 1930, with understanding from your verbal statements that none of the rights accorded the Brotherhood of Locomotive Firemen and Enginemen under said agreement of May 1, 1929, which is still in effect have been, or will be, abridged, annulled or restricted by the mediation settlement.

Will you kindly advise if our understanding is in conformity with your views?

Yours truly,

(Signed) A. PHILLIPS,

Vice President, B. L. F. & E.

(Signed) W. F. JONES,

General Chairman, B. L. F. & E.
Southern Pacific (Pacific Lines)

(Plaintiff's Exhibit No. 7 continued)

San Francisco, Calif.,

October 31, 1930.

Mr. Albert Phillips, Vice President,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

Mr. W. E. Jones, General Chairman,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

"Gentlemen: -

In reply to yours 30th inst., with regard to proposed mediation settlement with locomotive engineers, would say that your understanding with respect to provisions of Firemen's Agreement of May 1, 1929, is correct, except of course that to carry out the arrangement it will be necessary to revise certain of the rules of the above mentioned Firemen's Agreement so as to provide for the conditions enumerated in Items (a) and (b) of my communication.

"Would appreciate your prompt concurrence."

Yours truly,

(Signed) F. L. BURCKHALTER

General Manager

Southern Pacific Company

(Plaintiff's Exhibit No. 7 continued)

San Francisco, Calif.,

October 31, 1930.

Mr. F. L. Burekhalter,
General Manager,
Southern Pacific Company,
San Francisco, Calif.

Dear Sir:

Yours even date with regard to proposed mediation settlement with Locomotive Engineers.

We concur with understanding as outlined.

(Signed) A. PHILLIPS

Vice President, B. E. F. & E.

(Signed) W. E. JONES

General Chairman, B. E. F. & E.
Southern Pacific (Pacific Lines)

* * * * *

FIREMEN

ENGINEERS

Art. 43, Sec. 1; 2; 3 and 4, Firemen's Agreement, effective June 1, 1939:

Art. 32, Sec. 6 (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j), Engineers' Agreement, effective January 9, 1931:

Sec. 1. When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working list on any seniority district, those taken off may, if they so elect, displace any fireman their junior on that seniority district under the following conditions:

First: That no reduction will be made so long as those in

(a) When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working list on any seniority district, those taken off may, if they so elect, displace any fireman their junior on that seniority district under the following conditions:

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

assigned or extra passenger service are earning the equivalent of 4000 miles per month; in assigned, pooled or chain-gang freight, or other service paying freight rates, are averaging the equivalent of 3200 miles per month; on the road extra list are averaging the equivalent of 2600 miles per month, or those on the extra list in switching service are averaging 26 days per month.

Second: That when reductions are made they shall be in reverse order of seniority.

Sec. 2. When hired engineers are laid off on account of reduction in service, they will retain all seniority rights; provided, they return to actual service within 30 days from the date their services are required.

Sec. 3. Engineers taken off under this rule shall be returned to service as engineers in the order of their seniority as engineers, and as soon as it can be shown that engineers in assigned or extra passenger service can earn the equivalent of 4800 miles per month; in assigned, pooled, chain-gang or other regular service paying freight rates, the equivalent of 3800 miles per month.

ENGINEERS

First: That no reduction will be made so long as those in assigned or extra passenger service are earning the equivalent of 4000 miles per month; in assigned, pooled or chain-gang freight or other service paying freight rates, are averaging the equivalent of 3200 miles per month.

Second: That when reductions are made they shall be in reverse order of seniority.

(b) When hired engineers are laid off account of reduction in service, they will retain all seniority rights; provided they return to actual service within thirty days from the date their services are required.

(c) Engineers taken off under this rule shall be returned to service as engineers in the order of their seniority as engineers, and as soon as it can be shown that engineers in assigned or extra passenger service can earn the equivalent of 4800 miles per month; in assigned, pooled, chain-gang or other regular service paying freight rates, the equivalent of 3800 miles per month.

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

Sec. 4. In the regulation of passenger or other assigned service, sufficient men will be assigned to keep the mileage, or equivalent thereof, within the limitation of 4000 and 4800 miles for passenger and 3200 and 3800 miles for other regular service, as provided herein. If in any service additional assignments would reduce earnings below these limits, regulation will be effected by requiring the regular assigned man or men to lay off when the equivalent of 4800 miles in passenger or 3800 miles in other regular service has been reached.

On road extra lists, sufficient engineers will be maintained to keep the average mileage, or equivalent thereof, between 2600 and 3800 miles per month; provided that when engineers are cut off the working list and it is shown that those on the extra lists are averaging the equivalent of 3100 miles per month, engineers will be returned to the extra lists if the addition will not reduce the average mileage, or the equivalent thereof, below 2600 miles per month.

ENGINEERS

(d) In the regulation of passenger or other assigned service, sufficient engineers will be assigned to keep the mileage or equivalent thereof within the limitations of 4000 and 4800 miles for passenger service and 3200 and 3800 miles for other regular service, as provided herein. If in any service additional assignments would reduce earnings below these limits, regulation will be effected by requiring the regular assigned man or men to lay off when the equivalent of 4800 miles in passenger or 3800 miles in other regular service has been reached.

(e) On road extra lists, sufficient engineers will be maintained to keep the average mileage, or equivalent thereof, between 2600 and 3800 miles per month; provided that when engineers are cut off the working lists and it is shown that those on the extra lists are averaging the equivalent of 3100 miles per month, engineers will be returned to the extra lists if the addition will not reduce the average mileage, or the equivalent thereof, below 2600 miles per month.

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

Where separate extra lists are maintained for yard service, sufficient engineers will be maintained to keep the average earnings between 26 and 35 days per month; provided that when engineers are cut off the yard working list and it is shown that men are averaging the equivalent of 31 days per month, engineers will be returned to service if the addition will not reduce the average earnings below 26 days per month.

NOTE: As to mileage regulations affecting part-time men, see addendum to Article 43, pages 118-119-120. (Quoted below)

ADDENDUM TO ARTICLE 43: APPLICATION OF MILEAGE REGULATIONS TO PART-TIME MEN.

Excerpts from letter of November 30, 1934, from Mr. Wm. M. Leiserson, Chairman, National Mediation Board, to Mr. A. Johnston, Grand Chief Engineer, Brotherhood of Locomotive Engineers; Mr. D. B. Robertson, President, Brotherhood of Locomotive Firemen and Enginemen; Mr. J. A. Phillips, President, Order of Railway Conductors, and Mr. A. F. Whitney, President, Brotherhood of Railroad Trainmen, concerning the

ENGINEERS

(f) In assigned yard service, regulation will be made by requiring each regularly assigned man to lay off when he has earned the equivalent of 35 days per month.

(g) Where separate extra lists are maintained for yard service, sufficient engineers will be maintained to keep the average earnings between 26 and 35 days per month; provided that when engineers are cut off the yard working list and it is shown that men are averaging the equivalent of 31 days per month, engineers will be returned to service if the addition will not reduce the average earnings below 26 days per month.

(h) When regulating working lists in the respective classes of service, each list will be handled separately. In the regulation of mileage in road service and days in yard service, neither the minimum nor maximum is guaranteed.

When engineers work in both passenger and freight service, passenger miles will be counted as their equivalent in freight miles in carrying out the mileage regulations.

(i) If any engineer in assigned service exceeds his maximum miles or days in any 30 day working period the excess will be charged

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

application of mileage regulations to part-time men, the conditions of which were, before the President's Emergency Board of April-May, 1937, accepted by Mr. G. W. Laughlin, First Assistant Grand Chief Engineer, Brotherhood of Locomotive Engineers, and Mr. C. V. McLaughlin, Vice President, Brotherhood of Locomotive Firemen and Enginemen, and concurred in by the Carrier, as disposing of Case No. 11 that was pending before that Board:

"We undersand also from your conversation with respect to part-time men, whether they be engineers and firemen or conductors and trainmen, a sound and practical basis for adjustment would be to permit each organization to regulate the conditions of the part-time man during the time that these men are employed at the occupation covered by such organization. Thus if the mileage limitation on any road was 3300 miles for firemen and 3800 miles for engineers, a man in freight service making 1500 miles as a fireman, then used as emergency engineer for 500 miles, would be permitted to make only 1300 additional miles as a fireman; or a man making 2000 miles as an extra engineer who is cut off the engineers' extra board,

ENGINEERS

to his mileage or days in his following working period. This shall not apply to engineers who are required to exceed their maximum mileage due to a shortage of engineers.

(j) Under the provisions of the above rules it is understood that after all engineers who have been taken off have been returned to service as engineers, the 3100 mileage replacement for road extra men and the 31 day replacement for yard extra men shall not apply with respect to further additions."

(Plaintiff's Exhibit No. 4 continued)

FIREMEN

would be permitted to make only 1300 additional miles as a fireman. On the other hand, a fireman who has made his maximum mileage of 3800 miles and has been taken off on that account, might be used as an emergency engineer or go on the engineers' extra board for the remainder of the month to make the additional 500 miles up to 3800 in accordance with the engineers' mileage limitation."

ENGINEERS

"We understood from the discussions also that nothing in such a regulation of the part-time men would prevent any organization from regulating the mileage of its own men by adjustment at the end of each month or checking period, in order to offset any excess mileage that an individual may have made. That is to say, if a trainman had made 400 extra miles as an emergency conductor in any one month or checking period, and if at the end of that month or checking period he was working as a trainman, the trainmen's organization would have authority to regulate him to bring his mileage within the trainmen's limitation. If, on the other hand, the man was working as a conductor at the end of the month or checking period, he would be subject to the regulation of the conductors' organization. The point, as we understood

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

ENGINEERS

it, was that each organization would be free to make adjustment for excess mileage of the men under its jurisdiction to bring them within the mileage limitations set by that organization. And the fact as to whether a man was subject to the jurisdiction of one organization or another would be established by the craft that he was working in at the end of the month or checking period."

[Endorsed]: Exhibit No. 7. Filed Oct. 10, 1940.
Walter B. Maling, Clerk. By Harry L. Fouts,
Deputy Clerk.

PLAINTIFF'S EXHIBIT No. 8

EXTRACTS RELATIVE TO REPRESENTATION - RULE FROM ENGINEERS' AND FIREMEN'S AGREEMENTS, SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

CHICAGO JOINT AGREEMENT

between the
 Brotherhood of Locomotive Engineers
 and
 Brotherhood of Locomotive Firemen
 and Enginemen

May 17, 1913

"ARTICLE 7.

(a) The right of any engineer, fireman or hostler to have the regularly constituted committee of his organization representing him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule, involved, is conceded."

* * * * *

FIREMEN

Sec. 52 (a), Firemen's Agreement,
 effective May 11, 1915:

"The right of any engineer or fireman to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of

ENGINEERS

Sec. 21 (d), Engineers' Agreement,
 as amended by the application
 of the Chicago Award effective
 May 11, 1915:

"The Brotherhood of Locomotive Engineers' Committee will represent all engineers in matters pertaining to rates, rules of seniority and general grievances covered by this

FIREMEN

the General Committee making the schedule involved, is conceded."

Sec. 52 (a), Firemen's Agreement, effective December 1, 1918:

"The right of any engineer, fireman, or **hostler** to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule, involved, is conceded."

Art. 51, Sec. 1, Firemen's Agreement, effective January 1, 1919:

"The right of any engineer, fireman, hostler or **hostler helper** to have the regularly constituted committee of his

ENGINEERS

Agreement; except that the right of any engineer to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule, involved, is conceded."

Sec. 21 (d), Engineers' Agreement, effective October 1, 1918:

(Reads verbatim with provision next above quoted.)

Sec. 21 (e), Engineers' Agreement, effective January 1, 1919:

(Reads verbatim with provision next above quoted.)

FIREMEN

organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule, involved, is conceded."

Art. 51, Sec. 1, Firemen's Agreement, effective December 29, 1922:

(Reads verbatim with provision next above quoted.)

Art. 51, Sec. 1, Firemen's Agreement, effective September 1, 1924:

(Reads verbatim with provision next above quoted.)

Art. 51, Sec. 1, Firemen's Agreement, effective May 1, 1929:

(Reads verbatim with provision next above quoted.)

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Art. 32, Sec. 21 (c), Engineers' Agreement, effective December 29, 1922:

(Reads verbatim with provision next above quoted.)

Art. 32, Sec. 21 (c), Engineers' Agreement, effective September 1, 1924:

(Reads verbatim with provision next above quoted.)

Art. 32, Sec. 22, Engineers' Agreement, effective January 9, 1931:

"The General Committee of Adjustment, Brotherhood of Locomotive Engineers, will represent all locomotive engineers in the making of contracts, rates, rules, working agreement, and interpretations thereof.

(Plaintiff's Exhibit No. 7 continued)

FIREMEN

ENGINEERS

All controversies affecting locomotive engineers will be handled in accordance with the recognized interpretation of the Engineers' contract as agreed upon between the Committee of the Brotherhood of Locomotive Engineers and the Management.

In matters pertaining to discipline, or other questions not affecting changes in Engineers' contract, the officials of the Company reserve the right to meet any of their employes either individually or collectively."

Art. 51, Sec. 1, Firemen's Agreement,
effective June 1, 1939:

(Reads verbatim with provision next above quoted.)

Correspondence between Management of Southern Pacific Company and B. of L. F. & E. with regard to mediation with B. of L. E.

San Francisco, Calif.,

October 30, 1930.

Mr. Albert Phillips, Vice President,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

Mr. W. E. Jones, General Chairman,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

Gentlemen:

As you know we are now in mediation with the Brotherhood of Locomotive Engineers over certain matters growing out of the abrogation of the Chicago Joint Working Agreement. It appears that we shall be able to settle the matters in dispute provided—

(a) Mileage for extra engineers is regulated between 2600 and 3800 miles per month with a 3100 mile replacement feature, and

(b) For extra yard engineers the days per month to be regulated between 26 and 35, with a 31 day replacement feature.

Confirming discussion with you gentlemen, it is desired that you agree to incorporating the changes

(a) and (b) above mentioned in the Firemen's

Agreement of May, 1929, between Southern Pacific Company (Pacific Lines) and the Brotherhood of Locomotive Firemen and Enginemen, same to be effective November 16, 1930. Please advise if you will be agreeable to so doing.

Yours truly,

(Signed) F. L. BURCKHALTER

General Manager

Southern Pacific Company

San Francisco, Calif.,

October 30, 1930.

Mr. F. L. Burckhalter,
General Manager,
Southern Pacific Company,
San Francisco, Calif.

Dear Sir:

We have for acknowledgment yours of even date, with regard to mediation with the Brotherhood of Locomotive Engineers, wherein you state—

It appears that we shall be able to settle the matters in dispute provided—

(a) Mileage for extra engineers is regulated between 2600 and 3800 miles per month with a 3100 mile replacement feature, and

(b) For extra yard engineers the days per month to be regulated between 26 and 35, with a 31 day replacement feature.

As stated to you in conference, we are agreeable to incorporating the proposed changes (a) and (b), above quoted, in the Firemen's Agreement of May 1, 1929, same to be effective November 16, 1930, with understanding from your verbal statements that none of the rights accorded the Brotherhood of Locomotive Firemen and Enginemen under said agreement of May 1, 1929, which is still in effect, have been, or will be, abridged, annulled or restricted by the mediation settlement.

Will you kindly advise if our understanding is in conformity with your views?

Yours truly,

(Signed) A. PHILLIPS

Vice President, B.L.F. & E.

(Signed) W. E. JONES

General Chairman, B.L.F. & E.
Southern Pacific (Pacific Lines)

"San Francisco, Calif.,

October 31, 1930.

Mr. Albert Phillips, Vice-President,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

Mr. W. E. Jones, General Chairman,
Brotherhood of Locomotive Firemen
and Enginemen, 857 Pacific Building,
San Francisco, California.

Gentlemen:

In reply to yours 30th inst., with regard to proposed mediation settlement with locomotive engineers, would say that your understanding with respect to provisions of Firemen's Agreement of May 1, 1929, is correct, except of course that to carry out the arrangement it will be necessary to revise certain of the rules of the above mentioned Firemen's Agreement so as to provide for the conditions enumerated in Items (a) and (b) of my communication 30th.

Would appreciate your prompt concurrence.

Yours truly,

(Signed) F. L. BURCKHALTER

General Manager

Southern Pacific Company

San Francisco, Calif.,

October 31, 1930.

Mr. F. L. Burckhalter,
General Manager,
Southern Pacific Company,
San Francisco, Calif.

Dear Sir:

Yours even date with regard to proposed mediation settlement with Locomotive Engineers.

We concur with understanding as outlined.

Yours truly,

(Signed) A. PHILLIPS

Vice President, B. L. F. & E.

(Signed) W. E. JONES

General Manager, B. L. F. & E.

Southern Pacific (Pacific
Lines)"

[Endorsed]: Exhibit No. 8. Filed Oct. 10, 1940.

Walter B. Maling, Clerk. By Harry L. Fouts, Deputy Clerk.

**PLAINTIFF'S EXHIBIT No. 9A
CHICAGO JOINT AGREEMENT**

**Between The
Brotherhood of Locomotive Engineers
and**

**Brotherhood of Locomotive Firemen
and Enginemen**

May 17, 1913.

ARTICLE 1.

(a) We affirm the right to make and interpret contracts, rules, rates and working agreements for locomotive engineers shall be vested in the regularly constituted committee of the Brotherhood of Locomotive Engineers, and, conversely, the right to make and interpret contracts, rules, rates and working agreements for locomotive firemen and hostlers, shall be vested in the Brotherhood of Locomotive Firemen and Enginemen; Provided, that on roads where but one organization has representation or maintains a committee, such organization shall have the right to negotiate schedules for all men in engine service.

(b) Where joint agreements are made in the future, the two committees shall endeavor to obtain yard engineers' rate of pay for hostlers required to make main line movements, and when such rate is obtained, these positions shall be filled by engineers as fast as vacancies occur.

(Plaintiff's Exhibit No. 9A continued)

ARTICLE 2.

In case of a dispute between the two organizations which the joint committees or officers placed in charge thereof fail to adjust, the matter shall be referred to the two Chief Executives, with a statement of the facts upon which each side base their contentions. The two Executives shall consider and decide the matter in controversy and their decision shall be final. In case the Chief Executives fail to agree the matter shall be submitted to arbitration and the decision of the Arbitrators shall be final. When a decision has been reached as above provided, both organizations shall unite in enforcing such decision.

ARTICLE 3.

The right of an engineer, fireman or hostler to seek membership in either or both of these organizations, in accordance with their respective laws, is conceded: Provided, that members who belong to both organizations shall not be permitted to serve on the local or General Committees of Adjustment, or local or Joint Protective Boards.

ARTICLE 4.

Engineers or firemen in actual service, members of both organizations, shall be required to pay all dues and assessments required of members of each organization.

(Plaintiff's Exhibit No. 9A continued)

ARTICLE 5.

(a) When a member of either of these organizations has been expelled for any cause, except non-payment of dues and assessments, the lodge or division shall notify the other organization of such expulsion together with a statement of the cause.

(b) A member or an ex-member of either of these organizations shall not be admitted to membership in the other until he is square on the books of the organization to which he has originally belonged.

ARTICLE 6.

In case of a strike involving both organizations each man shall receive benefits from the organization having jurisdiction of the class of service in which he is engaged; the engineers from the Brotherhood of Locomotive Engineers, and the firemen and hostlers from the Brotherhood of Locomotive Firemen and Enginemen, under their respective laws. No man shall receive strike benefits from both organizations.

ARTICLE 7.

(a) The right of any engineer, fireman or hostler to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule, involved, is conceded.

(Plaintiff's Exhibit No. 9A continued)

(b) In case either organization shall make an issue and declare a strike independent of the other organization, whether there is a joint working agreement or not between the Committees, the organization making the issue will not order a strike of its members who are working under an agreement made by the other organization, and it shall be understood that should the Brotherhood of Locomotive Engineers order a strike it will not require its members who are firing to quit their positions as firemen, and if the Brotherhood of Locomotive Firemen and Enginemen shall order a strike it will not require its members, who are running engines, to quit their positions as engineers.

(c) When a strike is called by one organization the members of the other organization shall not perform any service that was being performed, before the strike was called, by the members of the organization who are on strike.

(d) When a member of either organization has a grievance which the local committee of his organization is unable to adjust with the local officers of the company, the matter shall be referred to the two General Chairmen who shall unite and work jointly in handling such grievance to its final conclusion.

(e) In case of any dispute between the two organizations that is finally decided in favor of either organization, as against the contentions of the other, or in case any General Chairman or General Committee fails or refuses to act jointly with the Gen-

(Plaintiff's Exhibit No. 9A continued)

eral Chairman or General Committee of the other organization, the organization in whose favor the decision is made shall not be limited in its power to enforce the decision made in its favor by the limitations of paragraph (b) hereof.

ARTICLE 8.

When any grievance has been handled by a committee of one organization, except jointly as herein provided, it shall not thereafter be handled by the committee of the other organization.

ARTICLE 9.

The principle of joint schedules for engineers, firemen and hostlers is affirmed and it is the recommendation of this Committee that joint meetings of the General Committees on every system of railroad be arranged for in future schedule negotiations. The policy of joint action herein subscribed to shall also apply to concerted wage movements.

ARTICLE 10.

(a) Firemen shall rank on the firemen's roster from the date of their first service as firemen when called for such service, and when qualified shall be promoted to positions as engineers in accordance with the following rules:

(b) Firemen shall be examined for promotion according to seniority on the Firemen's roster; and

(Plaintiff's Exhibit No. 9A continued)

those passing the required examination shall be given certificates of qualification, and when promoted shall hold their same relative standing in the service to which assigned.

(c) If for any reason the senior eligible firemen are not available and a junior qualified fireman is promoted and used in actual service out of his turn, whatever standing the junior fireman so used establishes shall go to the credit of the senior eligible fireman. As soon as the senior fireman is available he shall displace the junior fireman, who shall drop back into whatever place he would have held had the senior fireman been available and the junior fireman not used.

(d) As soon as a fireman is promoted he will be notified in writing by the proper official of the company of the date of his promotion, and unless he file a written protest within sixty days against such date he cannot thereafter have it changed. When a date of promotion has been established in accordance with regulations, such date shall be posted and if not challenged in writing within sixty days after such posting, no protest against such date shall afterwards be heard.

(e) No fireman shall be deprived of his rights to examination nor to promotion in accordance with his relative standing on the firemen's roster, because of any failure to take his examination by reason of the requirements of the company's service, by sickness, or by other proper leave of absence, provided: That upon his return he shall be immediately called and

(Plaintiff's Exhibit No. 9A continued)

required to take examination and accept proper assignment.

(f) The posting of notice of seniority rank, as per section (d) shall be done within ten days following date of promotion and such notice shall be posted on every bulletin board of the seniority district on which the man holds rank.

(g) Firemen having successfully passed the qualifying examination shall be eligible as engineers. Promotion and the establishment of a seniority date as engineer, as provided herein, shall date from the first service as engineer, when called for such service.

Note: On roads where promotion is to road service only, promotion and establishment of seniority date as road engineer will obtain.

(h) The seniority date of a hired engineer shall be the date of his first service as engineer.

ARTICLE 11.

(a) When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working lists, those thus taken off, who have been promoted from the ranks of the firemen on any seniority district, may, if they so elect, displace any fireman their junior on that seniority district, under the following conditions:

First: That no reductions will be made, so long as those in pooled or chain-gang freight service are

(Plaintiff's Exhibit No. 9A continued)

averaging the equivalent of 3,000 miles per month; or, on the ~~road~~ extra list, are averaging the equivalent of 2,200 miles per month, or those on the extra list in switching service are averaging as much as 22 days per month.

Second: That when reductions are made, they shall be in reverse order of seniority.

(b) When hired engineers are laid off on account of reduction in service, they will retain all seniority rights; provided, they return to actual service within 30 days from the date their services are required.

(c) Engineers taken off under this rule shall be returned to service as engineers, in the order of their seniority as engineers, and as soon as it can be shown that engineers in pooled or chain-gang freight service can earn the equivalent of 3,500 miles, or in extra service the equivalent of 2,600 miles per month.

(d) Under this rule it is understood that after all engineers who have been taken off have been returned to service as engineers this rule shall not apply with respect to further additions.

(e) It shall be the policy of both organizations, when working jointly, to insist upon having a guaranteed monthly wage of not less than \$100 for all extra engineers and not less than \$65 for all extra firemen retained in service, and when a minimum wage is guaranteed no reductions in the force will be insisted upon by either organization.

(Plaintiff's Exhibit No. 9A continued)

Note: In making reductions and replacing firemen upon the service lists, the same mileage shall apply as in the case of engineers, except that the rules shall not apply to firemen in switching service.

ARTICLE 12.

(Proposed joint working agreement for the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen):

(a) For the purpose of securing better wages and better working conditions and affording protection to their members, it is hereby agreed that the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen on the _____ railroad will work jointly.

(b) When the committees have been convened jointly they shall first proceed to the election of a Chairman, Vice Chairman and Secretary from among their members. If the Chairman is elected from one organization, the Vice Chairman and Secretary shall be elected from the other. The duties of the Chairman shall be to preside at the meetings of the joint committee and in his absence the Vice Chairman shall preside.

(c) The powers and duties of the Chairman or Vice Chairman shall be purely parliamentary, and they shall hold office only for the session for which elected. The two General Chairmen shall conduct

(Plaintiff's Exhibit No. 9A continued)

the hearings with the officials of the Company, and shall have charge of the committee when not in joint session, sharing equally in this work.

(d) It shall be the duty of the secretary to keep a true and correct record of the proceedings, which shall be read each day, and at the close of the session, for which he was elected, he shall furnish each committee with a copy thereof.

(e) Having elected officers as above, the two committees shall meet jointly and deliberate upon all questions that may be presented in accordance with and subject to the laws of the respective organizations.

(f) All questions may be disposed of by a majority vote of the members in the committee of the whole but either side may, by a majority vote of its members, demand an organization vote, in which case each organization shall have but one vote regardless of its numerical strength. In case of a deadlock due to one organization voting against the other, the matter may be further considered, and should neither side recede from their position, the Chairman, acting in conjunction with the Vice Chairman, shall appoint a conference committee, composed of an equal number of members (not to exceed three) from each organization to consider and propose a solution of the question.

(g) After the committees in joint session have completed the draft of a proposition to be submitted to the company, it shall then be approved by

(Plaintiff's Exhibit No. 9A continued)

an organization vote. Should it fail to receive the necessary approval, the Chairman will appoint a conference committee, which will make modifications in accordance with the views of its members.

(h) When committees have arranged to work jointly, neither Chairman or Committee will be permitted to go to the office of the railroad, with which they are negotiating, without the other Chairman or Committee; and neither committee shall effect a settlement of the matters in negotiation without the knowledge and consent of the other.

(i) In accordance with the Chicago Agreement, neither General Chairman shall take up a case of any kind without the assistance of the other, but this does not necessarily mean that both Chairmen shall be present at every conference on the different cases, it being understood that either Chairman has the right to designate his Vice Chairman or the Chairman of the other organization to represent him. This is not intended to permit the Chairmen to work independently of each other, but is for the purpose of expediting the work and to reduce the expense, it being expressly understood that both Chairmen shall be present when any case of importance is to be adjusted:

(j) In case of voting to make an issue the committees of each organization shall vote on the question in accordance with their respective laws, and shall immediately communicate the results of the vote to the committee of the other organization. If

(Plaintiff's Exhibit No. 9A continued)

the Committee of either organization shall fail to vote in favor of making an issue, the other organization shall not be barred from making an issue alone.

(k) When a vote of the membership is taken, each organization will poll its members in accordance with its own laws, on a ballot with a blank space for the members to indicate the service they are performing.

(l) When the result of the vote is known, each organization will communicate the result to the other; and, should either organization fail to give the necessary strike vote, the other shall not be barred from making the issue in accordance with its own laws.

(m) When the two committees have formed a joint committee they shall thereafter work jointly, electing a Chairman, a Vice Chairman and Secretary at each session (this not to apply in case of a recess), and will not cease to work jointly by reason of any disagreement or deadlock until the question has first been submitted to the Chief Executives, as provided in the Chicago Agreement; and their decision rendered thereon.

(n) These rules may be modified or amended by a two-thirds vote of the members of the joint committee in order to meet local conditions, and subject to the approval of the two Chief Executives.

(Plaintiff's Exhibit No. 9A continued)

ARTICLE 13.

(a) Where jurisdiction over hostlers is transferred to the Brotherhood of Locomotive Firemen and Enginemen, and where jurisdiction over men running switch engines is transferred to the Brotherhood of Locomotive Engineers, the rights that have been acquired and practices now in effect for the men under the jurisdiction of the organization from which jurisdiction is transferred shall be preserved by the organization to which jurisdiction is transferred.

(b) It being further understood that "fixtures" in yard service shall not be displaced by road engineers during periods of business depression.

ARTICLE 14.

Laws of either organization which interfere in any manner with the proper execution of this agreement shall be so amended as to avoid confliction therewith.

ARTICLE 15.

This agreement shall not be amended, revised or annulled, until after thirty days written notice has been served by order of the Convention of either organization.

RECOMMENDATION:

That it is the sense of this study that this agreement be not made public until after it has been presented to the next Convention of the Brotherhood

(Plaintiff's Exhibit No. 9A continued)
of Locomotive Firemen and Enginemen, to be held
in Washington, D. C., in June, 1913.

Resolution:

It shall be the policy of both organizations, acting through their General Committees on each railroad, to open negotiations with the proper officials of such railroad for the purpose of securing their co-operation in placing in effect the rates of wages and rules of employment agreed to herein; provided, that provisions of notice in existing schedules and laws of both organizations will be observed in reopening schedules to accomplish this purpose.

Date Effective:

This joint working agreement between the Brotherhood of Locomotive Engineers and Brotherhood of Locomotive Firemen and Enginemen, if ratified by the Twenty-sixth Convention of the Brotherhood of Locomotive Firemen and Enginemen, shall become effective July 1, 1913.

Agreed to for the

BROTHERHOOD OF LOCOMOTIVE ENGINEERS:

W. S. STONE, G. C. E.

M. W. CADLE, Asst. G. C. E.

M. E. MONTGOMERY, Asst. G. C. E.

J. G. BYWATER, Committee

T. J. HOSKINS, Committee

JOHN MEEKS, Committee,

M. J. FLANNERY, Committee

(Plaintiff's Exhibit No. 9A continued)

Agreed to for the

**BROTHERHOOD OF LOCOMOTIVE FIRE-
MEN AND ENGINEMEN:**

W. S. CARTER,

President.

TIMOTHY SHEA,

Asst. Pres.

E. A. BALL,

1st Vice Pres.

A. DILLON,

2nd Vice Pres.

A. PHILLIPS,

3rd Vice Pres.

C. V. McLAUGHLIN,

4th Vice Pres.

P. J. McNAMARA,

5th Vice Pres.

WALTER D. MOORE,

C. J. GOFF,

H. M. WALKER,

D. W. SMITH,

I. C. CLARK,

F. W. LEWIS,

O. D. HOPKINS,

A. I. KAUFFMAN,

O. W. KARN,

D. B. ROBERTSON,

S. A. BOONE.

[Endorsed]: No. 21301. Exhibit No. 9A. Filed
Oct. 10, 1940: Walter B. Maling, Clerk. By Harry
L. Fouts, Deputy Clerk.

PLAINTIFF'S EXHIBIT No. 9-B

CHICAGO
JOINT AGREEMENT

Between the Brotherhood of
Locomotive Engineers and
Brotherhood of Locomotive
Firemen and Enginemen

May 17, 1913

Revised at Cleveland

May 4, 1918

AGREEMENT

Between the B. of L. E. and
B. of L. F. & E.

ARTICLE I

(a) We affirm the right to make and interpret contracts, rules, rates and working agreements for locomotive engineers shall be vested in the regularly constituted committee of the Brotherhood of Locomotive Engineers, and, conversely, the right to make and interpret contracts, rules, rates and working agreements for locomotive firemen and hostlers, shall be vested in the Brotherhood of Locomotive Firemen and Enginemen; provided, That on roads where but one organization has representation or

(Plaintiff's Exhibit 9-B continued)

maintains a committee, such organization shall have the right to negotiate schedules for all men in engine service.

(b) Where joint agreements are made in the future the two committees shall endeavor to obtain yard engineers' rate of pay for hostlers required to make main line movements, and when such rate is obtained these positions shall be filled by engineers as fast as vacancies occur.

ARTICLE II

In case of a dispute between the two organizations which the joint committees or officers placed in charge thereof, fail to adjust, the matter shall be referred to the two Chief Executives, with a statement of the facts upon which each side base their contentions. The two *Chief** Executives shall consider and decide the matter in controversy, and their decision shall be final. In case the Chief Executives fail to agree the matter shall be submitted to arbitration and the decision of the arbitrators shall be final. When a decision has been reached, as above provided, both organizations shall unite in enforcing such decision.

ARTICLE III

The right of an engineer, fireman or hostler to seek membership in either or both of these organi-

*Italics were used in original agreement.

(Plaintiff's Exhibit 9-B continued)

zations, in accordance with their respective laws, is conceded: Provided, That members who belongs to both organizations shall not be permitted to serve on the local or General Committees of Adjustment, or local or *General Grievance Committees*.

ARTICLE IV

Engineers or firemen in actual service, members of both organizations, shall be required to pay all dues and assessments required of members of each organization.

ARTICLE V

(a) When a member of either of these organizations has been expelled for any cause, except non-payment of dues and assessments, the lodge or division shall notify the other organization of such expulsion together with a statement of the cause.

(b) A member or an ex-member of either of these organizations shall not be admitted to membership in the other until he is square on the books of the organization to which he has originally belonged: *Provided, a member or ex-member shall not be considered in arrears unless he has made written application to proper officers of division or lodge to be carried, and same has been favorably acted upon and recorded in minutes of meeting.*

ARTICLE VI

In case of a strike involving both organizations, each man shall receive benefits from the organiza-

(Plaintiff's Exhibit 9-B continued)

tion having jurisdiction of the class of service in which he is engaged; the engineers from the Brotherhood of Locomotive Engineers, and the firemen and hostlers from the Brotherhood of Locomotive Firemen and Enginemen, under their respective laws. No man shall receive strike benefits from both organizations.

ARTICLE VII

(a) The right of any engineer, fireman, or hostler to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule involved, is conceded.

(b) When a member of either organization has a grievance which the local committee of his organization is unable to adjust with the local officers of the company, the matter shall be referred to the two General Chairmen, who shall unite and work jointly in handling such grievance to its final conclusion.

(c) Neither General Chairman shall take up a case of any kind without the assistance of the other, but this does not necessarily mean that both General Chairmen shall be present at every conference on the different cases, it being understood that either Chairman has the right to designate his Vice-Chairman or the Chairman of the other organization to

(Plaintiff's Exhibit 9-B continued)

represent him. This is not intended to permit the Chairmen to work independently of each other, but is for the purpose of expediting the work and to reduce the expense, it being expressly understood that both Chairmen shall be present when any case of importance is to be adjusted.

(d) In case either organization shall make an issue and declare a strike independent of the other organization, whether there is a joint working agreement or not between the committees, the organization making the issue will not order a strike of its members who are working under an agreement made by the other organization, and it shall be understood that should the Brotherhood of Locomotive Engineers order a strike, it will not require its members who are firing, to quit their positions as firemen, and if the Brotherhood of Locomotive Firemen and Enginemen shall order a strike, it will not require its members, who are running engines, to quit their positions as engineers.

(e) When a strike is called by one organization the members of the other organization shall not perform any service that was being performed, before the strike was called, by the members of the organization who are on strike.

(f) In case of any dispute between the two organizations that is finally decided in favor of either organization, as against the contentions of the other, or in case any General Chairman or General Committee fails or refuses to act jointly with the Gen-

(Plaintiff's Exhibit 9-B continued)

eral Chairman or General Committee of the other organization; the organization in whose favor the decision is made shall not be limited in its power to enforce the decision made in its favor by the limitations of paragraph (d) hereof.

ARTICLE VIII

When any grievance has been handled by a committee of one organization, except jointly as herein provided, it shall not thereafter be handled by the committee of the other organization.

ARTICLE IX

The principle of joint schedules for engineers, firemen and hostlers is affirmed, and it is the recommendation of this Committee that joint meetings of the General Committees on every system of railroad be arranged for in future schedule negotiations. The policy of joint action herein subscribed to shall also apply to concerted wage movements.

ARTICLE X

(a) Firemen shall rank on the firemen's roster from the date of their first service as firemen when called for such service, *except as provided in Section (k)*, and when qualified shall be promoted to positions as engineers in accordance with the following rules:

(b) Firemen shall be examined for promotion according to seniority on the Firemen's roster, and those passing the required examination shall be

(Plaintiff's Exhibit 9-B continued)

given certificates of qualification, and when promoted shall hold their same relative standing in the service to which assigned.

(c) If for any reason the senior eligible fireman *or engineer to be hired* is not available and junior qualified fireman is promoted and used in actual service out of his turn, whatever standing the junior fireman so used establishes shall go to the credit of the senior eligible fireman *or engineer to be hired*, *provided the engineer to be hired is available and qualifies within thirty days*. As soon as the senior fireman *or engineer to be hired* is available, *as provided herein*, he shall displace the junior fireman, who shall drop back into whatever place he would have held had the senior fireman *to be promoted or engineer to be hired* been available and the junior fireman not used.

Note—Qualification, as referred to herein, is not intended to include learning of road or signals.

(d) As soon as a fireman is promoted he will be notified in writing by the proper official of the company of the date of his promotion, and unless he file a written protest within sixty days against such date he cannot thereafter have it changed. When a date of promotion has been established in accordance with regulations, such date shall be posted and if not challenged in writing within sixty days after such posting, no protest against such date shall afterwards be heard.

(e) No fireman shall be deprived of his rights to examination, nor to promotion in accordance with

(Plaintiff's Exhibit 9-B continued)

his relative standing on the firemen's roster, because of any failure to take his examination by reason of the requirements of the company's service, by sickness, or by other proper leave of absence; Provided, That upon his return he shall be immediately called and required to take examination and accept proper assignment.

(f) The posting of notice of seniority rank, as per section (d), shall be done within ten days following date of promotion and such notice shall be posted on every bulletin board of the seniority district on which the man holds rank.

(g) Firemen having successfully passed qualifying examination shall be eligible as engineers. Promotion and the establishment of a *date of seniority* as engineer, as provided herein, shall date from the first service as engineer, when called for such service, *provided there are no demoted engineers back firing. No demoted engineer will be permitted to hold a run as fireman on any seniority district while a junior engineer is working on the engineers' extra list or holding a regular assignment as engineer on such seniority district.*

Note—On roads where promotion is to road service only, promotion and establishment of seniority date as road engineer will obtain.

(h) *On a seniority district where firemen are required to fire less than three years, all engineers will be hired.*

(Plaintiff's Exhibit 9-B continued)

If required to fire 3 and less than 4 years, 1 promoted and 1 hired;

If required to fire 4 and less than 5 years, 2 promoted to 1 hired;

If required to fire 5 and less than 6 years, 3 promoted to 1 hired;

If required to fire 6 and less than 7 years, 4 promoted to 1 hired;

If required to fire 7 and less than 8 years, 5 promoted to 1 hired.

On seniority districts where firemen are required to fire eight years or more, all engineers will be promoted.

The foregoing will not prevent committees from having discharged engineers re-employed or reinstated on their former seniority districts at any time.

(i) If the engineer to be hired is not available when needed and the senior qualified fireman is promoted, the date of seniority thus established shall fix the standing of the hired engineer, who, if available and qualified within thirty days from date senior qualified fireman is promoted, will rank immediately ahead of the promoted fireman. The promoted fireman will retain his date of seniority as engineer and will be counted in proportion of promotions.

(j) In case an engineer is hired and used in actual service when, under requirements of section (h), a fireman (or firemen) should have been promoted, the date of seniority thus established shall fix the

(Plaintiff's Exhibit 9-B continued)

standing of the senior qualified fireman (or firemen) due to be promoted, providing he or they are eligible and qualify within thirty days, who shall rank immediately ahead of the hired engineer on the engineers' seniority list. The hired engineer will retain his date of seniority and be counted in proportion of engineers to be hired.

(k) The seniority date of the hired engineer shall be the date of his first service as engineer, except as provided in Sections (e), (i) and (j) of this Article. It is further provided that engineers hired, or permanently transferred from one seniority district to another on any railroad, shall be given a date of seniority as fireman corresponding with their date as engineer.

ARTICLE XI

(a) When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working lists on any seniority district, those taken off may, if they so elect, displace any fireman their junior on that seniority district under the following conditions:

First: That no reductions will be made so long as those in assigned or extra passenger service are earning the equivalent of 4000 miles per month; in assigned, pooled or chain-gang freight, or other service paying freight rates, are averaging the equivalent of 3200 miles per month; on the road extra list are averaging the equivalent of 2600 miles per month, or those on the extra list in switching service are averaging 26 days per month.

(Plaintiff's Exhibit 9-B continued)

Second: That when reductions are made they shall be in reverse order of seniority.

(b) When hired engineers are laid off on account of reduction in service, they will retain all seniority rights: Provided, they return to actual service within 30 days from the date their services are required. *This rule also applies to firemen.*

(c) Engineers taken off under this rule shall be returned to service as engineers in the order of their seniority as engineers, and as soon as it can be shown that engineers in *assigned or extra passenger service can earn the equivalent of 4800 miles per month*; in assigned, pooled, chain-gang or other regular service paying freight rates, the equivalent of 3800 miles per month, or in extra service the equivalent of 3000 miles per month.

(d) *In the regulation of passenger or other assigned service, sufficient men will be assigned to keep the mileage or equivalent thereof within the limitations of 4000 and 4800 miles for passenger and 3200 and 3800 miles for other regular service, as provided herein. If, in any service, additional assignments would reduce earnings below these limits, regulation will be effected by requiring the regular assigned man or men to lay off when the equivalent of 4800 miles in passenger or 3800 miles in other regular service has been reached.*

(e) Under this rule it is understood that after all engineers who have been taken off have been returned to service as engineers, this rule shall not apply with respect to further additions.

(Plaintiff's Exhibit 9-B continued)

(f) It shall be the policy of both organizations, when working jointly, to insist upon having a guaranteed monthly wage of not less than 25 *days* for all extra engineers and extra firemen retained in service, and when *this is* guaranteed no reductions in the force will be insisted upon by either organization.

Note—In making reductions and replacing firemen upon the service lists, the same mileage shall apply as in the case of engineers.

ARTICLE XII.

(Proposed joint working agreement for the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen;.)

(a) For the purpose of securing better wages and better working conditions, and affording protection to their members, it is hereby agreed that the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen on the _____ railroad will work jointly.

(b) When the committees have been convened jointly they shall first proceed to the election of a Chairman, Vice-Chairman and Secretary from among their members. If the Chairman is elected from one organization, the Vice-Chairman and Secretary shall be elected from the other. The duties of the Chairman shall be to preside at the meetings of the joint committee and in his absence the Vice-Chairman shall preside.

(Plaintiff's Exhibit 9-B continued)

(c) The powers and duties of the Chairman or Vice-Chairman shall be purely parliamentary, and they shall hold office only for the session for which elected. The two General Chairmen shall conduct the hearings with the officials of the company, and shall have charge of the committee when not in joint session, sharing equally in this work.

(d) It shall be the duty of the Secretary to keep a true and correct record of the proceedings, which shall be read each day, and at the close of the session for which he was elected he shall furnish each committee with a copy thereof.

(e) Having elected officers as above, the two committees shall meet jointly and deliberate upon all questions that may be presented in accordance with and subject to the laws of the respective organizations.

(f) All questions may be disposed of by a majority vote of the members in the committee of the whole, but either side may, by a majority vote of its members, demand an organization vote, in which case each organization shall have but one vote, regardless of its numerical strength. In case of a deadlock due to one organization voting against the other, the matter may be further considered, and should neither side recede from their position, the Chairman, acting in conjunction with the Vice-Chairman, shall appoint a conference committee, composed of an equal number of members (not to exceed three) from each organization to consider and propose a solution of the question.

(Plaintiff's Exhibit 9-B continued)

(g) After the committees in joint session have completed the draft of a proposition to be submitted to the company, it shall then be approved by an organization vote. Should it fail to receive the necessary approval, the Chairman will appoint a conference committee, which will make modifications in accordance with the views of its members.

(h) When committees have arranged to work jointly neither Chairman nor committee will be permitted to go to the office of the railroad, with which they are negotiating, without the other Chairman or committee; and neither committee shall affect a settlement of the matters in negotiation without the knowledge and consent of the other; *it being understood that either Chairman has the right to designate his Vice-Chairman or the chairman of the other organization to represent him.*

(i) In case of voting to make an issue the committees of each organization shall vote on the question in accordance with their respective laws, and shall immediately communicate the results of the vote to the committee of the other organization. If the committee of either organization shall fail to vote in favor of making an issue, the other organization shall not be barred from making an issue alone.

(j) When a vote of the membership is taken, each organization will poll its members in accordance with its own laws, on a ballot with a blank space for the members to indicate the service they are performing.

(Plaintiff's Exhibit 9-B continued)

(k) When the result of the vote is known each organization will communicate the result to the other, and, should either organization fail to give the necessary strike vote, the other shall not be barred from making the issue in accordance with its own laws.

(l) When the two committees have formed a joint committee they shall thereafter work jointly, electing a Chairman, a Vice-Chairman and Secretary at each session (this not to apply in case of a recess), and will not cease to work jointly by reason of any disagreement or deadlock until the question has first been submitted to the Chief Executives, as provided in the Chicago agreement, and their decision rendered thereon.

(m) These rules may be modified or amended by a two-thirds vote of the members of the joint committee in order to meet local conditions, and subject to the approval of the two Chief Executives.

ARTICLE XIII

(a) Where jurisdiction over hostlers is transferred to the Brotherhood of Locomotive Firemen and Enginemen, and where jurisdiction over men running switch engines is transferred to the Brotherhood of Locomotive Engineers, the rights that have been acquired and practices now in effect for the man under the jurisdiction of the organization from which jurisdiction is transferred, shall be preserved by the organization to which jurisdiction is transferred.

(Plaintiff's Exhibit 9-B continued)

(b) It being further understood that "fixtures" in yard service shall not be displaced by road engineers during periods of business depression.

ARTICLE XIV

Laws of either organization which interfere in any manner with the proper execution of this agreement shall be so amended as to avoid conflict therewith.

ARTICLE XV

This agreement shall not be amended, revised or annulled, until after thirty days' written notice has been served by order of the Convention of either organization.

RESOLUTION

It shall be the policy of both organizations; acting through their General Committees on each railroad, to open negotiations with the proper officials of such railroad for the purpose of securing their co-operation in placing in effect the rates of wages and rules of employment agreed to herein; Provided, That provisions of notice in existing schedules and laws of both organizations will be observed in re-opening schedules to accomplish this purpose.

(Plaintiff's Exhibit 9-B continued)

Effective As Revised May 4, 1918

For the Brotherhood of Locomotive Engineers.

W. S. STONE,

Grand Chief Engineer.

M. W. CADLE,

Asst. G. C. E.

M. E. MONTGOMERY

Asst. G. C. E.

A. JOHNSTON

F. S. EVANS

C. D. JOHNSON

For the Brotherhood of Locomotive Firemen and
Enginemen.

TIMOTHY SHEA,

Acting President.

A. PHILLIPS,

Vice-President.

C. V. McLAUGHLIN,

Vice-President.

O. D. HOPKINS

T. M. SPOONER

I. C. CLARK

[Endorsed]: Exhibit No. 9B. Filed Oct. 10, 1940.
Walter B. Maling, Clerk. By Harry L. Fouts,
Deputy Clerk.

PLAINTIFF'S EXHIBIT No. 9-C

CHICAGO
JOINT AGREEMENT

Between the Brotherhood of Locomotive Engineers
and Brotherhood of Locomotive Firemen and
Enginemen.

May 17, 1913

Revised at Cleveland

May 4, 1918

May 1, 1923

AGREEMENT

Between the B. of L. E. and
B. of L. F. & E.

ARTICLE I

(a) We affirm the right to make and interpret contracts, rules, rates and working agreements for locomotive engineers shall be vested in the regularly constituted committee of the Brotherhood of Locomotive Engineers, and, conversely, the right to make and interpret contracts, rules, rates and working agreements for locomotive firemen and hostlers, shall be vested in the Brotherhood of Locomotive Firemen and Enginemen; provided, That on roads where but one organization has representation, or maintains a committee, such organization shall have

(Plaintiff's Exhibit No. 9-C continued)

the right to negotiate schedules for all men in engine service.

(b) Where joint agreements are made in the future the two committees shall endeavor to obtain yard engineers' rate of pay for hostlers required to make main line movements, and when such rate is obtained these positions shall be filled by engineers as fast as vacancies occur.

ARTICLE II

In case of a dispute between the two organizations which the joint committees or officers placed in charge thereof, fail to adjust, the matter shall be referred to the two Chief Executives, with a statement of the facts upon which each side base their contentions. The two Chief Executives shall consider and decide the matter in controversy, and their decision shall be final. In case the Chief Executives fail to agree the matter shall be submitted to arbitration and the decision of the arbitrators shall be final. When a decision has been reached, as above provided, both organizations shall unite in enforcing such decision.

ARTICLE III

The right of an engineer, fireman or hostler to seek membership in either or both of these organizations, in accordance with their respective laws, is conceded: Provided, That members who belong to both organizations shall not be permitted to serve

(Plaintiff's Exhibit No. 9-C continued)

on the local or General Committees of Adjustment, or local or General Grievance Committees.

ARTICLE IV

Engineers or firemen in actual service, members of both organizations, shall be required to pay all dues and assessments required of members of each organization.

ARTICLE V

(a) When a member of either of these organizations has been expelled for any cause, except non-payment of dues and assessments, the lodge or division shall notify the other organization of such expulsion together with a statement of the cause.

(b) A member or an ex-member of either of these organizations shall not be admitted to membership in the other until he is square on the books of the organization to which he has originally belonged: Provided, a member or ex-member shall not be considered in arrears unless he has made written application to proper officers of division or lodge to be carried, and same has been favorably acted upon and recorded in minutes of meeting.

ARTICLE VI

In case of a strike involving both organizations, each man shall receive benefits from the organization having jurisdiction of the class of service in which he is engaged; the engineers from the Brotherhood of Locomotive Engineers, and the fire-

(Plaintiff's Exhibit No. 9-C continued)

men and hostlers from the Brotherhood of Locomotive Firemen and Enginemen, under their respective laws. No man shall receive strike benefits from both organizations.

ARTICLE VII

(a) The right of any engineer, fireman or hostler to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule involved, is conceded.

(b) When a member of either organization has a grievance which the local committee of his organization is unable to adjust with the local officers of the company, the matter shall be referred to the two General Chairmen, who shall unite and work jointly in handling such grievance to its final conclusion.

(c) Neither General Chairman shall take up a case of any kind without the assistance of the other, but this does not necessarily mean that both General Chairmen shall be present at every conference on the different cases, it being understood that either Chairman has the right to designate his Vice-Chairman or the Chairman of the other organization to represent him. This is not intended to permit the Chairmen to work independently of each other, but it is for the purpose of expediting the work and to reduce the expense, it being expressly understood

(Plaintiff's Exhibit No. 9-C continued)

that both Chairmen shall be present when any case of importance is to be adjusted.

(d) In case either organization shall make an issue and declare a strike independent of the other organization, whether there is a joint working agreement or not between the committees, the organization making the issue will not order a strike of its members who are working under an agreement made by the other organization, and it shall be understood that should the Brotherhood of Locomotive Engineers order a strike, it will not require its members who are firing, to quit their positions as firemen, and if the Brotherhood of Locomotive Firemen and Enginemen shall order a strike, it will not require its members, who are running engines, to quit their positions as engineers.

(e) When a strike is called by one organization the members of the other organization shall not perform any service that was being performed, before the strike was called, by the members of the organization who are on strike.

(f) In case of any dispute between the two organizations that is finally decided in favor of either organization, as against the contentions of the other, or in case any General Chairman or General Committee fails or refuses to act jointly with the General Chairman or General Committee of the other organization, the organization in whose favor the decision is made shall not be limited in its power to enforce the decision made in its favor by the limitations of paragraph (d) hereof:

(Plaintiff's Exhibit No. 9-C continued)

ARTICLE VIII

When any grievance has been handled by a committee of one organization, except jointly as herein provided, it shall not thereafter be handled by the committee of the other organization.

ARTICLE IX

The principle of joint schedules for engineers, firemen and hostlers is affirmed, and it is the recommendation of this Committee that joint meetings of the General Committees on every system of railroad be arranged for in future schedule negotiations. The policy of joint action herein subscribed to shall also apply to concerted wage movements.

ARTICLE X

(a) Firemen shall rank on the firemen's roster from the date of their first service as firemen when called for such service, except as provided in Section (k), and when qualified shall be promoted to positions as engineers in accordance with the following rules:

(b) Firemen shall be examined for promotion according to seniority on the Firemen's roster, and those passing the required examination shall be given certificates of qualification, and when promoted shall hold their same relative standing in the service to which assigned.

(c) If for any reason the senior eligible fireman or engineer to be hired is not available and junior

(Plaintiff's Exhibit No. 9-C continued)

qualified fireman is promoted and used in actual service out of his turn, whatever standing the junior fireman so used establishes shall go to the credit of senior eligible fireman or engineer to be hired, provided the engineer to be hired is available and qualifies within thirty days. As soon as the senior fireman or engineer to be hired is available, as provided herein, he shall displace the junior fireman, who shall drop back into whatever place he would have held had the senior fireman to be promoted or engineer to be hired been available and the junior fireman not used.

Note—Qualification, as referred to herein, is not intended to include learning of road or signals.

(d) As soon as a fireman is promoted he will be notified in writing by the proper official of the company of the date of his promotion, and unless he files a written protest within sixty days against such date he cannot thereafter have it changed.

When the date of promotion of a fireman or the date of a hired engineer, or fireman has been established in accordance with regulations, such date shall be posted and if not challenged in writing within sixty days after such posting, no protest against such date shall afterwards be heard.

(e) No fireman shall be deprived of his rights to examination, nor to promotion in accordance with his relative standing on the firemen's roster because of any failure to take his examination by reason of the requirements of the company's service, by sick-

(Plaintiff's Exhibit No. 9-C continued)

ness, or by other proper leave of absence: Provided, That upon his return he shall be immediately called and required to take examination and accept proper assignment.

(f) The posting of notice of seniority rank, as per section (d), shall be done within ten days following date of promotion and such notice shall be posted on every bulletin board of the seniority district on which the man holds rank.

(g-1) Firemen having successfully passed qualifying examination shall be eligible as engineers. Promotion and the establishment of a date of seniority as engineer, as provided herein, shall date from the first service as engineer, when called for such service, provided there are no demoted engineers back firing. No demoted engineer will be permitted to hold a run as fireman on any seniority district while a junior engineer is working on the engineers' extra list or holding a regular assignment as engineer on such seniority district.

Note—On roads where promotion is to road service only, promotion and establishment of seniority date as road engineer will obtain.

(g-2) *Firemen having successfully passed qualifying examinations shall be eligible as engineers. Promotion and the establishment of a date of seniority as engineer, as provided herein, shall date from the first service as engineer, when called for such service, provided there are no demoted engineers back firing. No demoted engineer will be permitted*

(Plaintiff's Exhibit No. 9-C continued)

to hold a run as fireman out of any terminal on a seniority district while a junior engineer is working on the engineers' extra list, or holding an assignment as engineer out of such terminal; it being understood that an engineer cut off the engineers' extra list at any terminal on a seniority district may displace any engineer his junior on that seniority district; it being further understood that engineers will be required to fill all positions of engineers on any seniority district before firemen are promoted, or engineers hired on that seniority district.

Note.—On any seniority district where a division of the B. of L. E. and a lodge of the B. of L. E. & E. desire to put paragraph (g-2) in effect, a referendum vote of the members of all divisions and lodges on that seniority district, must be taken, and the expense of taking the vote must be borne by each division and lodge for voting their members. If a majority of the members of each organization vote in favor of putting Paragraph (g-2) in effect, they will notify the general chairman, who will put Paragraph (g-2) in effect on that seniority district. When Paragraph (g-2) is adopted on a seniority district of a railroad system, it will remain in effect until a majority of the members of either organization on that seniority district decide through a referendum vote, and thirty days' notice has been served on the other organization, to discontinue the rule. After a referendum vote has been taken to

(Plaintiff's Exhibit No. 9-C continued)

discontinue the rule, such thirty days' notice will be served in writing by the general chairman of the organization desiring the change upon the general chairman of the other organization. Upon the expiration of such thirty days' notice, or, in case of failure to secure a majority vote by either organization for the adoption of Paragraph (g-2) it is understood that Paragraph (g-1) is in effect.

(h) On a seniority district where firemen are required to fire less than three years, all engineers will be hired:

If required to fire 3 and less than 4 years, 1 promoted and 1 hired;

If required to fire 4 and less than 5 years, 2 promoted to 1 hired;

If required to fire 5 and less than 6 years, 3 promoted to 1 hired;

If required to fire 6 and less than 7 years, 4 promoted to 1 hired;

If required to fire ~~7~~ 7 and less than 8 years, 5 promoted to 1 hired.

On seniority districts where firemen are required to fire eight years or more, all engineers will be promoted.

The foregoing will not prevent committees from having discharged engineers re-employed or reinstated on their former seniority districts at any time.

(i) If the engineer to be hired is not available when needed and the senior qualified fireman is pro-

(Plaintiff's Exhibit No. 9-C continued)

noted, the date of seniority thus established shall fix the standing of the hired engineer, who, if available and qualified within thirty days from date senior qualified fireman is promoted, will rank immediately ahead of the promoted fireman. The promoted fireman will retain his date of seniority as engineer and will be counted in proportion of promotions.

(j) In case an engineer is hired and used in actual service when, under requirements of section (h), a fireman (or firemen) should have been promoted, the date of seniority thus established shall fix the standing of the senior qualified fireman (or firemen) due to be promoted, providing he or they are eligible and qualify within thirty days, who shall rank immediately ahead of the hired engineer on the engineers' seniority list. The hired engineer will retain his date of seniority and be counted in proportion of engineers to be hired.

(k) The seniority date of the hired engineer shall be the date of his first service as engineer, except as provided in Sections (c), (i) and (j) of this Article. It is further provided that engineers hired, or permanently transferred from one seniority district to another on any railroad, shall be given a date of seniority as fireman corresponding with their date as engineer.

ARTICLE XI

Section 1: (a) When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working lists on any seniority dis-

(Plaintiff's Exhibit No. 9-C continued)

strict, those taken off may; if they so elect, displace any fireman their junior on that seniority district under the following conditions:

(b) When reductions are made, they shall be in reverse order of seniority, *except as provided in Paragraph (g-2), Article X, when in effect*. No reductions will be made so long as those in extra passenger service are averaging the equivalent of 4,000 miles per month; in pooled, chain gang or any other *unassigned* service paying freight rates are averaging the equivalent of 3,200 miles per month; on the road extra list are averaging the equivalent of 2,400 miles per month; on the yard extra list are averaging the equivalent of 25 days per month.

(c) When hired engineers or firemen are laid off on account of reduction in service, they will retain all seniority rights; provided, they return to actual service within thirty (30) days from the date their services are required.

(d) Engineers or firemen taken off under this rule shall be returned to service as engineers or firemen in the order of their seniority and in their respective class of service, as soon as it can be shown that men in extra passenger service average the equivalent of 4800 miles per month; in pooled, chain gang or any other *unassigned* service paying freight rates average the equivalent of 3,500 miles per month; in road extra service average the equivalent of 3,100 miles per month; in yard extra service average the equivalent of thirty (30) days per month.

(Plaintiff's Exhibit No. 9-C continued)

(e) In returning engineers and firemen to service under Section 1, Paragraph (D), sufficient number of men will be added to the working list to keep the mileage between the maximum stipulated in Paragraph (D) and the minimum stipulated in Paragraph (B). If an additional assignment would reduce the mileage below the minimum stipulated in Paragraph (B) for the same class of service, regulation will be made by requiring each man in the class of service affected to lay off when he has earned the equivalent of the maximum mileage stipulated in Paragraph (D).

Note—Under the provisions of this Paragraph, it is understood that if at a checking period it is found that the mileage in a pool averages the equivalent of 3,500 miles per month and a man could not be added to the pool without reducing the average mileage below 3,200 miles per month, regulation will be effected in the following checking period by taking the individual man off when he has made the equivalent of 3,500 miles per month; with the understanding that a man will be permitted to make an additional trip provided the preceding trip did not bring him up to the equivalent of 3,500 miles per month and with the further understanding that the mileage of the last trip would not make his total mileage for the month in excess of 3,800 miles.

Section 2. After all engineers or firemen have been returned to service, the following regulations will apply with respect to further additions to the working lists:

(Plaintiff's Exhibit No. 9-C continued)

(a) In the regulation of extra passenger service, sufficient number of men will be assigned to keep the mileage or equivalent thereof within the limitations of 4,000 and 4,800 miles per month; in pooled, chain gang or any other unassigned service paying freight rates, 3,500 and 3,800 miles per month; in road extra service, 3,100 and 3,800 miles per month; in yard extra service, 30 and 34 days per month.

(b) When the mileage of men in either of the classes of service specified in Section 2, Paragraph (A), averages in excess of the maximum stipulated therein, and an additional assignment would reduce the mileage below 4,000 miles per month in extra passenger service; 3,500 miles per month in pooled, chain gang or any other unassigned service paying freight rates; 3,100 miles per month in road extra service; or 30 days per month in yard extra service, regulation will be made by requiring each man in the class of service affected to lay off when he has earned the equivalent of the maximum mileage stipulated in Paragraph (A).

Note—Under the provisions of this Section, it is understood that if at a checking period, it is found that the mileage in extra passenger service averages in excess of the equivalent of 4,800 miles per month; in pooled, chain gang or any other unassigned service paying freight rates averages in excess of the equivalent of 3,800 miles per month; in road extra service averages in excess of the equivalent of 3,800

(Plaintiff's Exhibit No. 9-C continued)

miles per month; in yard extra service averages in excess of the equivalent of 34 days per month, and if regulations cannot be made by assigning men without reducing the average below the minimum as stipulated, then regulations will be effected in the following checking period by taking the individual man or men off, so that earnings will not exceed the maximum for each class of service as set forth in Section 2 (A).

Section 3. In the regulation of assigned passenger service, a sufficient number of men will be assigned to keep the mileage or equivalent thereof within the limitations of 4,000 and 4,800 miles per month; in assigned service paying freight rates, a sufficient number of men will be assigned to keep the mileage or equivalent thereof within the limitations of 3,200 and 3,800 miles per month. To keep within the mileage limitations set forth in this Section, additional crews may be added or swing men used to relieve the regular men on specified days. If regulation cannot be made as provided herein, men will be required to lay off so that the equivalent of 4,800 miles in passenger, or 3,800 miles in the other assigned service, will not be exceeded.

Section 4. In assigned yard service, regulation will be made by requiring each regularly assigned man to lay off when he has earned the equivalent of 35 days per month.

(Plaintiff's Exhibit No. 9-C continued)

Section 5. In regulating the working lists in the respective classes of service, each list will be handled separately.

Section 6. Arrangements for keeping record of the mileage of engineers and firemen will be made between the railroad officials and committees, and engineers and firemen will be required, upon the completion of each trip, to register their trip mileage or equivalent thereof.

Section 7. General committees will jointly agree upon a stipulated period for checking and regulating the mileage each month; provided, that the period must be 10, 15 or 30 days. Failing to mutually agree, it will be understood that the 15-day period will apply. Local chairmen will work jointly in checking the mileage and assigning men. When the mileage has been checked and the number of crews assigned in accordance with mileage limitations, there will be no further computations or adjustments made during the same period.

Section 8. There should be a uniform application of these mileage limitations for both engineers and firemen in the same class of service, but in case of disagreement, each organization is authorized to regulate the mileage for the class of service it represents, with the understanding that the mileage regulations of this Article will be adhered to.

Section 9. It shall be the policy of both organizations, when working jointly, to insist upon hav-

(Plaintiff's Exhibit No. 9-C continued)

ing a guaranteed monthly wage of not less than 24 days for all extra engineers and extra firemen retained in service, and when this is guaranteed, no reductions in the force will be insisted upon by either organization.

ARTICLE XII

(Proposed joint working agreement for the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen:)

(a) For the purpose of securing better wages and better working conditions, and affording protection to their members, it is hereby agreed that the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen on the railroad will work jointly.

(b) When the committees have been convened jointly they shall first proceed to the election of a Chairman, Vice-Chairman and Secretary from among their members. If the Chairman is elected from one organization, the Vice-Chairman and Secretary shall be elected from the other. The duties of the Chairman shall be to preside at the meetings of the joint committee and in his absence the Vice-Chairman shall preside.

(c) The powers and duties of the Chairman or Vice-Chairman shall be purely parliamentary, and they shall hold office only for the session for which elected. The two General Chairmen shall conduct the hearings with the officials of the company, and

(Plaintiff's Exhibit No. 9-C continued)

shall have charge of the committee when not in joint session, sharing equally in this work.

(d) It shall be the duty of the Secretary to keep a true and correct record of the proceedings, which shall be read each day, and at the close of the session for which he was elected he shall furnish each committee with a copy thereof.

(e) Having elected officers as above, the two committees shall meet jointly and deliberate upon all questions that may be presented in accordance with and subject to the laws of the respective organizations.

(f) All questions may be disposed of by a majority vote of the members in the committee of the whole, but either side may, by a majority vote of its members, demand an organization vote, in which case each organization shall have but one vote, regardless of its numerical strength. In case of a deadlock due to one organization voting against the other, the matter may be further considered, and should neither side recede from their position, the Chairman, acting in conjunction with the Vice-Chairman, shall appoint a conference committee, composed of an equal number of members (not to exceed three) from each organization to consider and propose a solution of the question.

(g) After the committees in joint session have completed the draft of a proposition to be submitted to the company, it shall then be approved by an organization vote. Should it fail to receive the

(Plaintiff's Exhibit No. 9-C continued)

necessary approval, the Chairman will appoint a conference committee, which will make modifications in accordance with the views of its members.

(h) When committees have arranged to work jointly neither Chairman nor committee will be permitted to go to the office of the railroad, with which they are negotiating, without the other Chairman or committee; and neither committee shall effect a settlement of the matters in negotiation without the knowledge and consent of the other, it being understood that either Chairman has the right to designate his Vice-Chairman or the chairman of the other organization to represent him.

(i) In case of voting to make an issue the committees of each organization shall vote on the question in accordance with their respective laws, and shall immediately communicate the results of the vote to the committee of the other organization. If the committee of either organization shall fail to vote in favor of making an issue, the other organization shall not be barred from making an issue alone.

(j) When a vote of the membership is taken, each organization will poll its members in accordance with its own laws, on a ballot with a blank space for the members to indicate the service they are performing.

(k) When the result of the vote is known each organization will communicate the result to the other, and, should either organization fail to give

(Plaintiff's Exhibit No. 9-C continued)

the necessary strike vote, the other shall not be barred from making the issue in accordance with its own laws.

(l) When the two committees have formed a joint committee they shall thereafter work jointly, electing a Chairman, a Vice-Chairman and Secretary at each session (this not to apply in case of a recess), and will not cease to work jointly by reason of any disagreement or deadlock until the question has first been submitted to the Chief Executives, as provided in the Chicago agreement, and their decision rendered thereon.

(m) These rules may be modified or amended by a two-thirds vote of the members of the joint committee in order to meet local conditions, and subject to the approval of the two Chief Executives.

ARTICLE XIII.

(a) Where jurisdiction over hostlers is transferred to the Brotherhood of Locomotive Firemen and Enginemen, and where jurisdiction over men running switch engines is transferred to the Brotherhood of Locomotive Engineers, the rights that have been acquired and practices now in effect for the man under the jurisdiction of the organization from which jurisdiction is transferred, shall be preserved by the organization to which jurisdiction is transferred.

(b) It being further understood that "fixtures"

(Plaintiff's Exhibit No. 9-C continued)

in yard service shall not be displaced by road engineers during periods of business depression.

ARTICLE XIV.

(A) *It is recommended that in future, seniority districts of the men of one organization shall not be changed, when such change affects the seniority of the men of the other organization, without first taking the matter up with the representatives of the other organization in joint conference, so that, if possible, the seniority districts will be the same for both organizations.*

Should the joint committee disagree upon uniform seniority districts, the matter shall be referred to the Chief Executives by the two General Chairmen for handling, the understanding being that officers may be assigned with a view of trying to compose the situation and reach a satisfactory agreement for all concerned.

(B) *It is recommended that in the future, where a railroad or a portion thereof is leased or absorbed by another railroad, no changes should be made affecting the seniority districts or assignments of the engineers and firemen on the leased or absorbed lines, until the general committees have handled the question jointly with the view of reaching a uniform agreement, covering the question of seniority districts and assignments of the engineers and firemen on the leased or absorbed lines.*

(Plaintiff's Exhibit No. 9-C continued)

Should the general committees disagree upon a uniform method of handling questions of this character, the matter should be referred to the Chief Executives by the General Chairmen of the two organizations for handling, the understanding being that officers may be assigned with the view of trying to reach an agreement that would effect a uniform method of disposing of the question.

ARTICLE XV.

Laws of either organization which interfere in any manner with the proper execution of this agreement are hereby amended so as to avoid confliction therewith.

ARTICLE XVI.

This agreement shall not be amended, revised or annulled, until after thirty days' written notice has been served by order of the Convention of either organization.

RESOLUTION

It shall be the policy of both organizations, acting through their General Committees on each railroad, to open negotiations with the proper officials of such railroad for the purpose of securing their co-operation in placing in effect the rates of wages and rules of employment agreed to herein; Provided, That provisions of notice in existing schedules and laws of both organizations will be observed in re-opening schedules to accomplish this purpose.

(Plaintiff's Exhibit No. 9-C continued)

EFFECTIVE AS REVISED MAY 1, 1923.

For the Brotherhood of Locomotive Engineers,

W. S. STONE, G. C. E.

M. E. MONTGOMERY, A. G. C. E.

L. G. GRIFFING, A. G. C. E.

F. S. EVANS,

R. H. COBB

J. F. EMERSON

R. T. FLEMING

For the Brotherhood of Locomotive Firemen and
Enginemen,

D. B. ROBERTSON,

President

TIMOTHY SHEA,

Assistant President

O. D. HOPKINS,

Vice President

M. O. LAISURE

T. M. SPOONER

C. H. KEENEN

W. E. STEVENS

MEMORANDUM OF THE APPLICATION OF ARTICLE 10 (G-2) WHEN ADOPTED

(1) On the X. Y. Z. Railroad, the men hold seniority rights over the entire system, which has four terminals (A, B, C and D), where the men live and work out of, and where working lists of

(Plaintiff's Exhibit No. 9-C continued)

engineers and firemen are maintained. If business falls off at (A) to such extent that it is found necessary to reduce the number of engineers at that point, reductions will be made according to the seniority of the engineers working out of (A), regardless of the fact that junior engineers may be working out of (B, C, or D).

(2) Engineers cut off the list of (A) under the above example may displace any fireman or hostler their junior at (A), or they may displace any engineer their junior at (B, C or D).

(3) Engineers cut off the list at (A) under the above example cannot take a position as fireman or hostler at any terminal except (A), while there are engineers their junior working at any one of the other three terminals (B, C or D).

(4) If, after the engineers' list has been cut at (A), business picks up and there is need for additional engineers at that point, a portion, or all of the men that were demoted at (A) during business depression, can be assigned to the engineers' list at (A), without requiring senior engineers (whether demoted or actually assigned as engineers) at (B, C or D), to take service as engineers at (A).

(5) If all demoted engineers at (A) have been returned to the engineers' list, and, because of increased business, it is found that additional engineers are still needed at that point, the senior demoted engineers at (B, C or D)—if there are

(Plaintiff's Exhibit No. 9-C continued)

any—will be required in the order of their seniority, to take assignment as engineers at (A), before additional firemen are promoted, or engineers hired; it being understood they may return to their home terminal (B, C or D), when their seniority as engineers entitles them to a place on the engineers' list at their home terminal (B, C or D).

(6) If a business depression at (A) requires the engineers' list to be cut while, at the same time, an increase in business at (D) has resulted in all of the demoted engineers at that point having been returned to the engineers' list, and there is still need of additional engineers at (D), the men cut off the engineers' list at (A), will be required to assist in protecting the engineers' board at (D), in the manner set forth in Example (5), before additional firemen are promoted or engineers hired.

[Endorsed]: Exhibit No. 9-C. Filed Oct. 10, 1940. Walter B. Maling, Clerk. By Harry L. Fouts.

**DEFENDANT'S EXHIBIT A
FOR IDENTIFICATION****REPORT OF THE EMERGENCY BOARD**

Appointed April 14, 1937, Under Section 10 of the Railway Labor Act, May 20, 1926, as Amended June 21, 1934. In Re the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors Brotherhood of Railway Trainmen and Southern Pacific Company (Pacific Lines) and Northwestern Pacific Railroad Company

Report of Emergency Board Appointed April 14, 1937, Under Section 10 of the Railway Labor Act, May 20, 1926, as Amended June 21, 1934

In re The Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors, Brotherhood of Railway Trainmen and Southern Pacific Company (Pacific Lines) and Northwestern Pacific Railroad Company

The Emergency Board appointed by the President pursuant to the provisions of the Railway Labor Act, and in accordance with his executive proclamation of April 14, 1937, to investigate and report its findings respecting matters in dispute between the Southern Pacific Company (Pacific Lines) and Northwestern Pacific Railroad Company and certain of their employees, convened at William Taylor

(Defendant's Exhibit A continued)

Hotel, San Francisco, California, on April 20, 1937. All the members of the Board, consisting of G. Stanleigh Arnold, who was elected chairman, Charles Kerr, and Dexter M. Keezer were present. Frank M. Williams was appointed reporter and J. A. Weaver secretary. The Board held public hearings commencing on April 20, 1937, and concluding on May 6, 1937. Appearances in the order in which they were entered were made on behalf of the employees by G. W. Laughlin, 1st Assistant Grand Chief Engineer, Brotherhood of Locomotive Engineers; P. O. Peterson, General Chairman, Brotherhood of Locomotive Engineers; C. E. Weisell, Attorney, Brotherhood of Locomotive Engineers; F. H. Nemitz, Vice-President, Order of Railway Conductors; G. G. McLemman, Chairman, General Committee of Adjustment, Order of Railway Conductors; C. E. Weisell, Attorney, Order of Railway Conductors; C. H. Smith, Vice-President, Brotherhood of Railroad Trainmen; C. V. McLaughlin, Vice-President, Brotherhood of Locomotive Firemen and Enginemen; R. J. Brooks, General Chairman, Brotherhood of Railroad Trainmen; M. E. Somerlott, Secretary, General Committee, Brotherhood of Railroad Trainmen; W. E. Jones, General Chairman, Brotherhood of Locomotive Firemen and Enginemen; C. W. Moffitt, 1st Vice-Chairman, Brotherhood of Locomotive Firemen and Enginemen; Donald R. Richberg, Attorney, Brotherhood of Railroad Trainmen, and the Brotherhood of

(Defendant's Exhibit A continued)

Locomotive Firemen and Enginemen. On behalf of both the Carriers, appearances were made by A. T. Mercier, General Manager, Southern Pacific Company; A. J. Hancock, Assistant General Manager, Southern Pacific Company; Robert McIntyre, Assistant to General Manager; Henley C. Booth, General Attorney; and Burton Mason, Commerce Attorney.

Before the conclusion of the hearings, the officers and counsel of the several Organizations and the Carriers made a determined effort to comply with our request that they eliminate, by compromise or agreement, as many of the forty-one items appearing on the strike ballot as possible. The result was that all of the items in which the Northwestern Pacific Railroad Company was concerned, namely, Cases Nos. 29, 31, and 40, were settled. Of the thirty-eight remaining items, twenty-seven, Cases Nos. 3, 4, 5, 11, 13, 14, 15, 17, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 32, 33, 34, 35, 36, 37, 38, 39, and 41, were eliminated in the same way.

As to the remaining cases, evidence was submitted and exhibits presented to the Board upon which are based the following Findings and Report.

Upon March 26, 1937, the Brotherhood of Locomotive Firemen and Enginemen and the Brotherhood of Railroad Trainmen circulated a strike ballot among the Firemen, Enginemen, and Trainmen of the Southern Pacific Company and Northwestern Pacific Railroad Company. The strike ballot cited

(Defendant's Exhibit A continued)

forty-one causes of grievance. Over five thousand men were employed by the Carrier in the capacities named. These employees voted by a large majority to strike.

Of the forty-one items cited in the strike ballot, all except eleven have been amicably settled.

Although the disputes are ostensibly between the two Brotherhoods named above and the Carrier, most of the cases here reviewed arise from inter-organization controversies wherein these Brotherhoods, and the Brotherhood of Locomotive Engineers and the Order of Railway Conductors are involved, as shown in the following discussion of the several cases.

The items as numbered on the strike ballot investigated by us were Cases Nos. 1, 2, 6, 7, 8, 9, 10, 12, 16, 18, and 24.

Case No. 1

Request for cancellation of agreement February 28, 1936, secretly negotiated between Carrier and representatives of the Brotherhood of Locomotive Engineers, placing certain restrictions as to handling of cases by the General Committee of the Brotherhood of Locomotive Firemen and Enginemen in violation of schedule rules, past practice and the Railway Labor Act, also definite understanding whereby the rights of our organization to represent its membership shall be protected in accordance with

(Defendant's Exhibit A continued)

our agreements and Railway Labor Act. (Strike Ballot Statement.)

The Brotherhood of Engineers and the Brotherhood of Firemen and Enginemen each have a contract with the Southern Pacific Company, Pacific Lines.¹ These contracts embody the rules, resulting from many years of experience, accepted by the contracting parties as the law governing the industrial relationship between the Carrier and Engineers, and between the Carrier and Firemen and Enginemen.

A characteristic of locomotive employment in railway operation is that there are constant changes in the duties to which an employee may be assigned. At all times these changes, due to the nature of the occupation, take place, but the fact is more noticeable in abnormal economic periods. In times of depression, large numbers of engineers are demoted, and, because of their seniority rights, displace firemen. It is quite conceivable, and perhaps has happened, that all employees on a division serving as firemen may be, in fact, demoted engineers. Conversely, in times of prosperity, large numbers of

¹Formerly the Engineers and the Firemen and Enginemen had a joint agreement, known as the Chicago Joint Working Agreement, with the Carrier. In 1927, this agreement was abrogated, and separate contracts were made. Most of the provisions of the separate contracts are taken bodily from the Joint Working Agreement.

(Defendant's Exhibit A continued)

firemen are promoted to engineer service for long or short periods according to the volume of transportation business.

The present dispute is an indirect result of this constant ebb and flow in the nature of the employment. A number of employees are members of both organizations. Some belong to neither, but most of them belong to one or the other. Consequently, when a fireman member of the Firemen's Organization is promoted to engineer service, he works under the contract negotiated by the Engineers' Organization, and is bound by the interpretation placed upon the rules thereof as interpreted by that Organization and the Carrier. A demoted member of the Engineers' Organization is similarly governed by the rules of the Firemen's Agreement.

This situation led to an arrangement of many years' standing, in which the Carrier and both Organizations, concurred, to the following effect:

The right of any engineer, fireman or hostler to have the regularly constituted committee of his organization represent him in handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule involved, is conceded. (Section (a), Article VII.)²

²Chicago Joint Working Agreement, 1913.

(Defendant's Exhibit A continued)

Subsequently, in each of the separate contracts between the Carrier and each organization, the same provision was in effect preserved.³

In the National Railway Labor Act as amended (48 Stat. L. 926, U. S. Code, Title 45, Chap. 8) many of the principles of these and similar agreements between Carriers and the Organizations

³Thus, Article 32, Section 22, of the Engineers' Agreement, effective January 9, 1931, provides:

The General Committee of Adjustment, Brotherhood of Locomotive Engineers, will represent all locomotive engineers in the making of contracts, rates, rules, working agreement, and interpretations thereof.

All controversies affecting locomotive engineers will be handled in accordance with the recognized interpretation of the Engineers' contract as agreed upon between the Committee of the Brotherhood of Locomotive Engineers and the Management.

In matters pertaining to discipline, or other questions not affecting changes in Engineers' contract, the officials of the Company reserve the right to meet any of their employees either individually or collectively.

Article 51, Section 1, of the Firemen's Agreement, effective May, 1929, provides:

The right of any engineer, fireman, hostler or hostler helper to have the regularly constituted committee of his organization represent him in the handling of his grievances, in accordance with the laws of his organization and under the recognized interpretation of the General Committee making the schedule, involved, is conceded.

(Defendant's Exhibit A continued)

throughout the country, especially those recognizing the rights of collective bargaining and representation,⁴ were embodied in Federal law, and appropriate methods for the protection of these rights were established.

The result of the agreements cited above (which obviously are in accord with the intent and purposes of the National Railway Labor Act) has been that, for over thirty years, engineer members of the Firemen's Organization have been represented by that Organization in cases involving rules in the Engineers' Agreement, subject, however, to the interpretation of the rules as agreed upon by the Carrier and the Engineers' Organization.

On February 14, 1936, the Carrier addressed a letter to the Brotherhood of Locomotive Firemen and Enginemen, which, in part, states:

* * * it has been decided that for cases presented by the Brotherhood of Locomotive Firemen and Enginemen involving rules in the

For example, Section 2 declares one of the purposes of the Act is to "forbid any limitation upon freedom of association among employees or any denial, as a condition of employment or otherwise, of the right of employees to join a labor organization; to provide for the complete independence of carriers and of employees in the matter of self-organization", and Paragraph J of Section 3 of the Act, which relates to the National Board of Adjustment provides: "that parties may be heard either in person, by counsel, or by other representatives as they may respectively elect."

(Defendant's Exhibit A continued)

Engineers' Agreement, we must have an interpretation from the General Chairman, Brotherhood of Locomotive Engineers, on such rules as are applicable to the case or cases being so handled. It is hoped that the Brotherhood of Locomotive Firemen and Enginemen will arrange to comply with this requirement; if not, it will be necessary for the carrier, before rendering decision, to handle with General Chairman, Brotherhood of Locomotive Engineers, giving him history and facts in the case, with request that he furnish the carrier his interpretation of rules involved.

A similar notice was sent to the Engineers' Organization.

The Brotherhood of Locomotive Firemen and Enginemen protested that the procedure proposed did not conform to its Agreement with the Carrier, and would, if adopted, seriously modify and impair their members' rights under Article 51, Section 1, of the Firemen's Agreement. The Brotherhood of Locomotive Engineers regarded the assurance given as too indefinite and so notified the Carrier.

Upon February 27, 1936, the following accord was reached between the Brotherhood of Locomotive Engineers and the Carrier:

* * * when cases are presented to the carrier by representatives of an organization other than the Brotherhood of Locomotive Engineers,

(Defendant's Exhibit A continued).

involving rules in Engineers' Agreement, the carrier's representative will advise representatives of said organization that it must have an interpretation from the General Chairman, B. of L. E., on such rules as are applicable to the case, or cases, being so handled. If this is not done, the Carrier before rendering decision, will handle with General Chairman, B. of L. E., giving him history and facts in the case with request that he furnish the Carrier his interpretation of the rules involved.

It is understood that settlements made with said organization involving claims of engineers covered by rules of the Engineers' Agreement will be in conformity with interpretations agreed upon between the General Chairman, B. of L. E., and the Management.

The Firemen's Organization asserts, and it is admitted by the Carrier, that the former had no knowledge of the negotiations leading up to this Agreement other than what might have been inferred from the notice of February 14, 1936, above quoted. The reason given by the Carrier for the accord of February 27, 1936, is that the Brotherhood of Locomotive Engineers had, for a considerable period, been complaining about the handling of cases by the Brotherhood of Locomotive Firemen and Enginemen involving members of the latter organization acting in the capacity of engineers.

(Defendant's Exhibit A continued)

The basis of their complaint was that the Firemen's Organization, with the Carrier, was mishandling such cases and was thereby seriously undermining the Engineers' Agreement. The Brotherhood of Locomotive Engineers, had, according to the Carrier's representative, applied considerable pressure, going to the extent of threatening a strike unless all such cases were submitted to the Brotherhood of Locomotive Engineers before final settlement. Therefore, the Carrier had assumed no obligation to notify the Engineers' Organization until a case of this nature had been carried to a conclusion, although in many instances it had consulted with that Organization as to the interpretation of rules.

The agreement of February 27, 1936, between the Carrier and the Brotherhood of Locomotive Engineers, as interpreted and followed by the contracting parties, modifies and impairs the right of representation theretofore secured to the Brotherhood of Locomotive Firemen and Enginemen through its contract with the Carrier.

It also offends the objects and principles of the Railway Labor Act and infringes upon the rights intended to be secured by that Act. This legislation was enacted for the purpose of protecting national transportation against the consequences of labor disputes between carriers and their employees. It was devised by representatives of management, the employees, and the public. It secured the benefits of unhampered, collective bargaining to the several

(Defendant's Exhibit A continued)

crafts or classes engaged in the work of railway transportation. When a craft or class, through representatives chosen by a majority, negotiates a contract with a carrier, all members of the craft or class share in the rights secured by the contract, regardless of their affiliations with any organization of employees. It is clearly provided that these rights may be protected by negotiation or by the several methods of adjustment established by the Act. It is true that the representatives of the majority represent the whole craft or class in the *making** of an agreement for the benefit of all, but it is equally true that nothing in the Act denies the right to any employee, or group of employees, to enforce through representatives of his or their own choosing, his or their rights under any such agreement. The whole spirit and intention of the Act is contrary to the use of any coercion or influence against the exercise of an individual's liberty in his choice of representatives in protecting his individual rights secured by law or contract.

In Section 2 of the Railway Labor Act, Paragraph 4, it is declared unlawful for the carrier to "influence or coerce employees in an effort to induce them to join or remain or not to join or remain members of any labor organization." Without finding that the carrier had the purpose of influencing its employees to leave one organization and join another, the Agreement of February 27, 1936, did,

*Italics used in original unless otherwise noted.

(Defendant's Exhibit A continued)

as hereafter shown, put serious handicaps upon the power of the Brotherhood of Locomotive Firemen and Enginemen to protect promptly and adequately the rights of its engineer members, and to that extent made membership in the Brotherhood of Locomotive Engineers more desirable.

In the present case, the Carrier, in making the agreement of February 27, 1936, offended not only against the plain intent of the law, but broke its specific agreement with the Brotherhood of Locomotive Firemen and Enginemen, several times reaffirmed, that any engineer member of the latter Organization can have the regularly constituted committee of his Organization represent him in the handling of grievances. There was no restriction in the Firemen's Agreement upon this right. The interpretations of rules were to be made in accordance with the recognized interpretation agreed upon between the Carrier and the Organization holding the contract, but there was no limitation upon the right of an engineer member of the Brotherhood of Locomotive Firemen and Enginemen to have the committee of his Organization represent him in handling the case, under the recognized interpretation of the rule applying to his case.

The agreement of February 27, 1936, as interpreted and as followed by the officer of the Management directly in charge, and by the Brotherhood of Locomotive Engineers, required the Carrier to report the circumstances of *every* case of an engineer

(Defendant's Exhibit A continued)

member of the Firemen's Organization to the Brotherhood of Locomotive Engineers in every detail, and to refrain from making any adjustment or settlement of the case, until an interpretation of the rule involved had been given by the Brotherhood of Locomotive Engineers. This is inconsistent with the express public policy, as announced by the Railway Labor Act "to provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, rules, or working conditions." Cases arise, of course, where the interpretation of a rule is doubtful. In these cases the Carrier should, in the interest of orderly procedure and for its own protection, seek a correct interpretation before applying the rule, but this is a far different procedure from that to which the Carrier as shown by its practice has bound itself, namely, to submit the case of every engineer who is represented by the Brotherhood of Locomotive Firemen and Enginemen, to the Brotherhood of Locomotive Engineers before making an adjustment or settlement. The record convinces us that in a large number of cases, such submission would accomplish nothing except delay and vexation. The Engineers' Organization insists that every case submitted involves an interpretation of a rule; and this is true, but in many cases the interpretation of the rule is well-recognized and its application is plain. The

(Defendant's Exhibit A continued)

Engineers' own Agreement explains the recognized interpretation of many of its rules.

A second and more definite infraction of the Firemen's Agreement as interpreted by the officer of the Carrier directly in charge of the adjustment of claims and the Brotherhood of Locomotive Engineers is in the matter of compromising claims. The Brotherhood of Locomotive Engineers reserves the right (which it often exercises) to compromise a claim of one of its members operating under its agreement: but now, under the Agreement of February 27, 1936, it denies the Brotherhood of Locomotive Firemen and Enginemen the right to compromise any claim in behalf of one of its engineer members. The right to make a compromise may be a valuable element in the successful handling of a case, and the deprivation of this right, long recognized as being accorded to the Firemen's Organization under its agreement, is a serious breach of that agreement.

The Engineers' Organization urged that any compromise constitutes a precedent, or at least may cast doubt upon the proper interpretation of a rule. Since, however, each of the Organizations has in many compromises hitherto made, specifically provided that the compromises are not to be considered precedents, or to be authority for any interpretation of the rules under which the cases arise, the objection can obviously be removed by similar provisions in all compromises made in future by the Firemen's

(Defendant's Exhibit A continued)

Organization in cases involving rules of the Engineers' Agreement.

From the foregoing it must be evident that the rights of the Firemen's Organization to handle effectively the cases of their engineer members were seriously affected by the Agreement of February 27, 1936, and that the Carrier should not have entered into any such agreement without giving proper notice to the Firemen's Organization and without having had more definite advice than it apparently had, as to the agreement's legality.

The contention that the Firemen's Organization, in handling the cases of engineer members, is undermining the Engineers' Agreement to any appreciable degree is not sustained by the evidence.

Further, it was not shown that the Firemen's Organization has any reasonable incentive to undermine the rules of the Engineers' Agreement. To the contrary, the interests of its members, who sooner or later may become engineers, requires that the Engineers' Contract be sustained. Lastly, a large number of the rules of the Engineers' Agreement are identical with those of the Firemen's Agreement, so that the undermining of the Engineers' rules would be equally injurious to the Firemen's Organization.

The Agreement of February 27, 1936, has, according to the Carrier, proved disappointing in its operation. Because of the eager rivalry between the two Organizations to increase their membership, there

(Defendant's Exhibit A continued)

is an expressed suspicion on the part of the Firemen's Organization that the Engineers' Organization will use the advantages gained by this Agreement to their detriment. They feel, also, that the deprivation of their formerly recognized right to compromise is unwarrantable.

We find that—

(1) As interpreted by officers of the Brotherhood of Locomotive Engineers, and certain officers of the Southern Pacific Company, Pacific Lines, the Agreement of February 27, 1936, entered into between the Carrier and the officers of this Organization, has adversely affected rights of the Brotherhood of Locomotive Firemen and Enginemen secured to them by their Agreement with the Carrier in Article 51, Section 1, of the Firemen's Agreement of May 1929, and secured to them by the Railway Labor Act.

(2) The Agreement of February 27, 1936, should, therefore, be cancelled.

(3) The evidence presented in this case indicates clearly that this can be done without adversely affecting the just interests of the parties to the Agreement:

(a) If in conformity with its own understanding of the recognized or agreed upon interpretation of the rule involved, the Carrier promptly makes its awards on claims for adjustment of grievances brought to it by representatives of the persons making the claims.

(Defendant's Exhibit A continued)

(b) If the Carrier promptly furnishes copies of its awards to officers of Organizations having an interest in them, either because they hold an Agreement with the Carrier, a rule of which is being applied, or because they represent the party making the claim as a member of their Organization.

(c) If in the event claims are compromised, this fact is clearly noted and as a matter of standard practice, it is stated that compromised awards are made without prejudice to the rule of the working agreement in question.

(d) If the Organization holding the Agreement avails itself of existing remedies to correct any misinterpretation of its rules involved in a settlement made by the Carrier.

Case No. 2

Request for cancellation of agreement of October 26, 1936, secretly negotiated between Mr. R. McIntyre and representatives of the Order of Railway Conductors, placing certain restrictions as to handling of cases by the General Committee of the Brotherhood of Railroad Trainmen in violation of many years of past practice and the Railway Labor Act; also definite understanding whereby the rights of our organization to represent its membership shall be protected in accordance with our agreements and Railway Labor Act. (Strike Ballot Statement.)

(Defendant's Exhibit A continued)

In this case, the conflict involves a situation closely resembling that which has been covered in the preceding case, except that the dispute involves the relations between the Carrier and the Order of Railway Conductors and the Brotherhood of Railroad Trainmen.

Promotions of brakemen to employment as conductors, and demotion of conductors to brakemen occur constantly as in the case of firemen and engineers.

So far as the documents involved are concerned, the principal difference between this case and Case No. 1 is that the Brotherhood of Railroad Trainmen in its Agreement with the Carrier has made no special provision for representation where a member of its Order is operating as a conductor, instead of as a brakeman or other trainman. However, since for many years members of the Trainmen's Organization, acting as conductors, have been conceded by the Order of Railway Conductors the right to be represented throughout by the Trainmen's Organization, in disputes involving the Conductors' Agreement, it seems clear that until the present dispute arose, this was the agreed and accepted policy of both Organizations. This right, as shown by Case No. 1, is in accordance with the provisions of the Railway Labor Act.

In 1925 the two Organizations which had previously worked under a single Agreement with the Southern Pacific Company, Pacific Lines, separated

(Defendant's Exhibit A continued)

their Agreements. Thereafter, for a period of about ten years, their officers sometimes acted independently in the presentation to the Carrier of claims of their members for the adjustment of grievances and sometimes submitted joint dockets. During this period the Carrier freely consulted with the officers of either or both Organizations in the process of adjusting so-called inter-locking claims, i. e., claims presented by one Organization in behalf of a member working under the Agreements held by another Organization.

In the spring of 1936 the General Chairman, Order of Railway Conductors, asked for an agreement which would give his Organization more control over the adjustment of claims presented by the Brotherhood of Railroad Trainmen on behalf of its members working as conductors, upon the ground that the Carrier was misinterpreting the rules of the Conductors' Agreement in many such cases.

In amplification of this request, he subsequently wrote in part:

What I desire is a rule, properly made out and signed, in order that there would be no misunderstanding. As stated to you over the telephone, *it is my intention to regulate the action of Organizations other than the Order of Railway Conductors*, in submitting claims or complaints to you or other General Officials involving Conductors' Agreement.

⁵Italics ours.

(Defendant's Exhibit A continued)

On October 26, 1936, an Agreement between the Management and the Conductors' Organization, similar to the Agreement of February 27, 1936, between the Brotherhood of Locomotive Engineers and the Carrier, provided:

When cases are presented to the Carrier by representatives of an Organization other than the Order of Railway Conductors, involving rules in Conductors' Agreement, the Carrier's representative will advise representatives of said Organization that it must have an interpretation from the General Chairman, O. R. C., on such rules as are applicable to the case or cases being so handled. If this is not done, the Carrier, before rendering decision, will handle with General Chairman, O. R. C., giving him history and facts in the case with request that he furnish the Carrier his interpretation of the rules involved.

It is understood that settlement made with said Organization involving claims of conductors covered by rules of the Conductors' Agreement will be in conformity with interpretations agreed upon between the General Chairman, O. R. C., and the Management.

The officers of the Brotherhood of Railroad Trainmen did not participate in the conferences which led to the Agreement of October 26, 1936, and testi-

(Defendant's Exhibit A continued)

fied that they were not officially informed about it until much later.

It was made evident that the Agreement has resulted in definite and important changes in the procedure previously followed by the Carrier in adjusting claims presented by the Brotherhood of Railroad Trainmen on behalf of its members working as conductors. In contrast with the Carrier's contention that the Trainmen's Organization was not affected, the officer of the Carrier immediately in charge of adjusting such claims indicated that he construed the Agreement to mean that he must refer all claims presented by the Brotherhood of Railroad Trainmen on behalf of a conductor member to the officers of the Order of Railway Conductors for an interpretation. This officer also indicated that he construed the Agreement to mean that he would not be free to compromise a claim brought by the Brotherhood of Railroad Trainmen on behalf of a member working as a conductor unless the General Chairman of the Order of Railway Conductors had approved it. These interpretations of the Agreement were insisted upon by the officers of the Order of Railway Conductors. Officers of the Carrier, prior to the making of this Agreement, did not uniformly refer claims for the adjustment of grievances brought by the Brotherhood of Railroad Trainmen on behalf of a member working as a conductor to the Order of Railway Conductors. Also, they had

(Defendant's Exhibit A continued)

therefore made compromise settlements of claims directly with officers of the Brotherhood of Railroad Trainmen when presented on behalf of a conductor member. It follows that the Agreement of October 26, 1936, did in fact deprive members of the Brotherhood of Railroad Trainmen of rights of long standing and that they were deprived of these rights by an Agreement about which they were not consulted.

The same reasons, in effect, for the necessity of the new Agreement were advanced in this case as in Case No. 1: namely, that mishandling by the Trainmen's Organization with the Carrier in cases involving conductors was resulting in the undermining of the Conductors' Agreement. The evidence does not indicate the existence of any such danger. Furthermore, the same condition exists between the Conductors and Trainmen as that between the Engineers and Firemen; i. e., constantly the trainmen are promoted to be conductors and conductors are demoted to be brakemen so that the breaking down of the Agreement affecting either class would be to the detriment of many future members of that class. Furthermore, the rules in the Conductor's and Trainmen's Agreement are for the most part practically identical.

The same answers are given by the Trainmen's Organization as were given by the Firemen's Organization in Case No. 1.

(Defendant's Exhibit A continued)

We unanimously find that there is no real justification for the Agreement of October 26, 1936, and that it should be cancelled for the same reasons stated in our conclusions in Case No. 1.

Blocked Cases

The following case, and several others included in the strike ballot, disclose a serious situation.

The original National Railway Labor Act was amended in 1934 and the National Railroad Adjustment Board was created. This Board consists of thirty-six members, eighteen of whom are chosen by the Carriers, and eighteen by Organizations representing the employees. The Board is composed of four divisions. The first division consists of ten members, five of whom are selected by the Carriers and five by the Organizations. It has jurisdiction over disputes "involving train and yard-service employees of Carriers; that is, engineers, firemen, hostlers, and outside hostler helpers, conductors, trainmen, and yard-service employees."

Upon failure of any division to agree upon an award, in any case submitted to it, because of deadlock, a neutral person, to be known as "referee" is to be selected to sit as a member of the division.

The National Railroad Adjustment Board was established, as we understand it, for the purpose of making binding awards in all cases involving "disputes between an employee or group of employees and a carrier or carriers growing out of grievances

(Defendant's Exhibit A continued)

or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions."

Theoretically, it is possible for the Organization representing an aggrieved employee to secure an enforceable judgment through the Board. We find, however, that, in practice, this remedy is apparently becoming more and more inaccessible in cases where the employee whose grievance is involved, is working under an Agreement of an Organization other than that of which he is a member—a fact which seemed to be conceded and deplored by the very able attorneys who appeared before us in this case.

The reason for this situation is that while the Board represents Carrier and Labor equally, many cases arise where one or another of the labor organizations represented on the Board feels that an award in favor of an employee member of another Organization will re-act adversely to his (the representative's) Organization. So many cases of this kind have arisen that, keen though their rivalry is, the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen have apparently agreed among themselves that no case will be presented to the Board by one Organization without the consent of the other⁶ and the

⁶A similar arrangement appears to exist between the Order of Railway Conductors and the Brotherhood of Railroad Trainmen.

(Defendant's Exhibit A continued)

Board will not assume jurisdiction unless this consent is given. Consequently, not only in the case of the Carrier involved here, but throughout the whole railway system of the United States, an increasing number of grievances cannot be even heard by the Board. This results in grave injustice to the employee.

This mass of unadjusted cases will continue to grow until the present situation is remedied. They may not involve principles of sufficient importance to cause the circulation of a strike ballot, but when, for some other reason, a strike ballot is taken, the accumulation of these cases will be included in the ballot in increasing numbers.

In the present instance, although the situation has existed for only a short time, there were several of these cases among the forty-one items on the strike ballot. Had it not been for the much appreciated cooperation of the attorneys and officers representing the Organizations and those of the Carrier, it would have been a physical impossibility for us to have made an examination sufficient to justify a report within the time allowed by the Act. When, if the present situation continues, strike ballots include all the "blocked" cases which have accumulated, the efficiency of any Emergency Board will be increasingly impaired.

At present one of the principal purposes of the Railway Labor Act, namely: "to provide for the

(Defendant's Exhibit A continued)

prompt and orderly settlement of all disputes concerning rates of pay, rules, or working conditions" is being in many cases defeated by the foregoing circumstances.

Unless the Organizations themselves, which have the power to do so, solve this question, it lies within the jurisdiction of Congress to enact remedial legislation.

Meanwhile, this Board must not attempt to usurp the functions of the National Railroad Adjustment Board. The Act contemplates the settlement of disputes through orderly processes, and it is only after any grievance has been reviewed by the appropriate agency, as established by the Act, that an Emergency Board can properly make a recommendation based on the merits of the case.

Case No. 6

Claim of Brakeman W. S. Orr, Western Division, for 50 miles runaround, Oakland, July 26, 1935. (Strike Ballot Statement.)

The dispute over this claim arises from disagreement about the status of Mr. Orr at the time the claim originated. Officers of the Brotherhood of Railroad Trainmen contend that while Mr. Orr was assigned as a brakeman in pool freight service and eligible for the next call as an extra conductor, the Carrier used a junior promoted brakeman as extra conductor and thus became liable to pay Mr. Orr

(Defendant's Exhibit A continued)

for 50 miles in conformity with Article 23 of the Agreement between the Brotherhood of Railroad Trainmen and the Carrier, providing in part as follows:

Section (a) Trainmen in pool freight and unassigned service will be run first-in first-out, and if not called in turn through no fault of their own, they shall be allowed 50 miles and stand first out; if not called for service within the limits of eight hours, 100 miles will be allowed and stand last out. Runarounds will be paid at the rate applicable to class of service for which they should have been called.

Officers of the Order of Railway Conductors contend that the claim of Mr. Orr is invalid because (1) the Agreement of the Conductors' Organization governs any failure to call in for service an extra conductor, and; (2) for the territory in question, the Order of Railway Conductors has an agreement with the Carrier of July 13, 1935, governing layovers under which Mr. Orr could not properly make a claim for a runaround payment.

The Brotherhood of Railroad Trainmen has sought to refer the claim to the National Railway Adjustment Board, Division 1, but the officers of the Order of Railway Conductors have refused to permit such reference on the ground that the claim was properly settled under the Conductors' Agreement, and hence there is no dispute which is properly referable to that Board.

(Defendant's Exhibit A continued)

Your Board feels that this case which, in the general issue involved, closely resembles Case No. 8, following, should be referred to the National Railroad Adjustment Board, Division 1; and that the blocking of such reference is ill-advised. The question of when a trainman, in shifting to employment as a conductor, and vice versa, is properly subject to a particular agreement with the Carrier is one which the National Railroad Adjustment Board, Division 1, is particularly well equipped to settle because of its familiarity with precedents and satisfactory practice on railroads through the country. Also the question is one to which the Organizations involved might easily offer a general solution adequately protecting their interests as well as those of the Carrier in this and other similar cases. We recommend that, to avoid needless delay and inconvenience, they proceed to a solution through agencies specially constituted to handle such matters and available to them.

Case No. 7

Protest against engineers being permitted to take assignments as firemen after giving up their road rights and accepting permanent assignments as fixture yard engineers.

When during the depth of the depression the working lists of switch engineers were reduced, several engineers who were removed from these lists secured working assignments as road firemen.

(Defendant's Exhibit A continued)

The officers of the Brotherhood of Locomotive Firemen and Enginemen contend that such assignments were made in violation of Section 18, Article 28, of their Agreement with the Carrier (first incorporated in May 1910 as Paragraph E, Section 13, of their Agreement at that time) providing that:

A fireman, or a promoted fireman returned to firing service, under Section 36 (a), bidding for and accepting assignment to the position of switch engineer, thereby forfeits all seniority rights as fireman.

Officers of the Brotherhood of Locomotive Engineers contend, on the contrary, that in taking positions as switch engineers, the engineers in question did not forfeit their seniority rights as firemen. In support of this contention, they cite Section 6 (a), Article 32, of their Agreement with the Carrier, providing:

When, from any cause, it becomes necessary to reduce the number of engineers on the engineers' working list on any seniority district, those taken off may, if they so elect, displace any fireman their junior on that seniority district, under the following conditions.

The Carrier contends that since the engineers in question were in service as engineers when they accepted assignments to yard service, Section 18, Article 28, of its Agreement with the Brotherhood

(Defendant's Exhibit A continued)

of Locomotive Firemen and Enginemen does not apply, it being properly applicable only to firemen or promoted firemen returned to firing service.

The switch engineers whose assignments as road firemen gave rise to the protest of the Brotherhood of Locomotive Firemen and Enginemen in this case are at present working again as switch engineers. Consequently, the protest is not aggravated by their current displacements of firemen. However, the case does present a clear-cut conflict over the proper interpretation of provisions in working agreements. As such it is properly referable to the National Railway Adjustment Board, Division 1, for decision, but representatives of the Brotherhood of Locomotive Firemen and Enginemen stated that such reference is blocked by the unwillingness of the officers of the Brotherhood of Locomotive Engineers to permit it.

If we were called upon to settle the conflict over the proper interpretation of the rules in question, we would decide that the Carrier did not violate Section 18, Article 28, of its Agreement with the Firemen's Organization in assigning these switch engineers to service as road firemen. We were persuaded by the evidence presented that this rule was not designed to deprive engineers of their seniority rights as firemen upon their acceptance of assignments as switch engineers, but for another purpose. However, the proper solution of this problem is

(Defendant's Exhibit A continued)

to be found by referring the case to the National Railway Adjustment Board, Division 1. If it is true that it was impossible to have this case presented to that Board, the extent to which the purposes of the Railway Labor Act are being frustrated is here well illustrated.

Case No. 8

Claim of Brakeman Rito Frain, Los Angeles Division, for 131 miles, July 18, 1929. Similar claims and cancellation of an agreement dated September 28th, 1929.

The claims involved are based on Section (a), Article 42, Trainmen's Agreement, reading:

When trainmen are held waiting for their own crews, after having been taken off regular runs and sent out on special or other trains, they will be paid full compensation for such time as they are so held.

And there are a large number of these cases unsettled pending settlement of this dispute. The Brotherhood and Conductors' Committees appealed a number of claims as involved in this case, and in each instance claims were submitted on basis Section (a), Article 42, Trainmen's Agreement was applicable.

Without conference and agreement with the Brotherhood's Committee the Carrier made an agreement with the Conductors' Committee on

(Defendant's Exhibit A continued).

September 28th, 1929, setting aside the Trainmen's rule and providing for rules and payment of 100 miles at brakemen's rate in lieu of mileage of the assignment (for example, Rito Frain case, 131-miles), on basis Article 46, Conductors' Agreement was applicable.

The Jurisdiction Committees of the two Organizations (Brotherhood of Railroad Trainmen and Order of Railway Conductors), on April 2nd, 1932, decided that payments should be made under Article 42, Trainmen's Agreement.

This case also involves the principle of the Carrier eliminating schedule rule from Trainmen's Agreement without conference and agreement with the General Committee of the Brotherhood of Railroad Trainmen. (Strike Ballot Statement.)

This is a claim made by the Brotherhood of Railroad Trainmen on behalf of brakeman Rito Frain, Los Angeles Division, who held a regular through freight assignment between Los Angeles and Indio, a distance of 131 miles. Just prior to July 18, 1929, Frain was called to serve as conductor between Indio and Calexico. At the conclusion of his tour, July 17, he deadheaded to Los Angeles. On the morning of July 18 he was marked as brakeman on the Los Angeles board. He lost one day in Los

(Defendant's Exhibit A continued)

Angeles awaiting the return of his regular assigned crew.

He made claim for 131 miles through the Chairman of the Brotherhood of Railroad Trainmen and was allowed 100 as a brakeman.

The two rules involved are:

Section (a), Article 46, Conductors' Agreement which provides:

When conductors are held waiting for their own crews, after having been taken off regular runs and sent out on special or other trains, they will be paid full compensation for such time as they are so held.

Article 42, Section (a), Trainmen's Agreement contains the same provision relating to trainmen.

The Chairman of the Brotherhood of Railroad Trainmen presented Mr. Frain's claim for 131 miles to the Train Service Board of Adjustment, Western Region. It was later transferred to First Division, National Railroad Adjustment Board.

It is claimed by the General Chairman, Order of Railway Conductors, that Frain retained his status as conductor during the waiting period, and that the recognized interpretation of the Conductors' Agreement must govern. The Brotherhood of Railroad Trainmen contends that he resumed his status as a brakeman during the waiting period.

There is a conflict of jurisdiction between the Brotherhood of Railroad Trainmen and the Order

(Defendant's Exhibit A continued)

of Railway Conductors as to which should represent Train. On this question the Jurisdiction Committee of the Order of Railway Conductors and Joint Relations Committee of the Brotherhood of Railroad Trainmen, and President Berry, of the Order of Railway Conductors, and President Whitney, of the Order of Railroad Trainmen, rendered a decision on August 3, 1932, which was as follows:

DECISION.—It is decided that when a trainman is used as a conductor for a trip or trips and then is relieved as a conductor, he automatically reverts to the jurisdiction of the Trainmen, thereby sustaining the Trainmen's contention that they had the right to submit their claim to the train service board.

The representative of the Conductors' Committee refused to comply with this decision, and on January 16, 1936, President Phillips, of the Order of Railway Conductors, withdrew his approval of the submission to the Adjustment Board.

Since, in the opinion of this Board, the question involved is simply as to when a brakeman assigned to duty as a conductor resumes his status as brakeman, the National Railroad Adjustment Board, Division 1, should take jurisdiction.

Our comment and recommendation in Case No. 6 are applicable to this case.

(Defendant's Exhibit A continued)

Case No. 9

Protest against the use of Shasta District, Sacramento Division, engineers on Portland Division out of Klamath Falls when Portland Division firemen (demoted engineers) are available at Klamath Falls, in violation of agreements with the Brotherhood of Locomotive Firemen and Enginemen providing that when train service is available engineers and firemen from Eugene extra list will be dead-headed from Eugene to Klamath Falls to perform work on Portland Division, also agreement with the Brotherhood of Locomotive Firemen and Enginemen that when train service is not available Portland Division firemen (demoted engineers) will be used out of Klamath Falls when no regular or extra engineers are available. (Strike Ballot statement.)

The Portland Division and the Shasta District are separate and distinct seniority districts. The Portland Division extends from Portland to Klamath Falls and the Shasta District, of the Sacramento Division, extends from Klamath Falls to Gerber.

On November 26, 1926, representatives of the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen entered into an agreement with the Carrier which provides, among other things, that "in case

(Defendant's Exhibit A continued)

Portland or Shasta extra lists at Klamath Falls should become exhausted, men from either extra lists may be used."

This arrangement continued in effect until April 1927, when a closed pool arrangement was put into effect for the firemen between Klamath Falls and Crescent Lake, and subsequently adopted by the engineers with some slight modifications.

There was much confusion as to what actually occurred in this case, and apparently considerable misunderstanding up to the time that it was presented to this Board. It appears that the representatives of the Carrier in a number of instances made use of men not eligible for service under the firemen's and the engineers' agreements above noted, thereby saving dead-head mileage. At first when the attention of the Carrier was called to these cases proper restitution was made to the employees whose places had been improperly taken. Later the firemen's organization, understanding that the engineers' organization had canceled its agreement with the Carrier and was allowing the use of engineers from the Shasta Division upon the Portland Division out of Klamath Falls, filed its protest with the National Mediation Board.

It developed at the hearings, however, that the agreement of the engineers' organization and the Carrier had apparently never been abrogated. The dispute as shown in the strike ballot consists of a claim upon the part of the firemen's organization

(Defendant's Exhibit A continued)

that the Carrier had broken its agreement with the firemen's organization with regard to using engineers. As presented to this board, however, the contention now is that there was a joint agreement between the firemen's and engineers' organizations with the Carrier.

Our finding is that there was no such joint agreement, since the engineers entered into their agreement with the Carrier independently and several months after the firemen's organization had made its agreement. When the engineers' organization made its contract all employees serving as engineers were, of course, bound by the terms of the agreement. The organization had the same right to cancel its agreement, and if it had done so, all engineers, whether members of the firemen's organization or not, would have been bound by the cancellation.

There is no similarity between this case and cases numbers 1 and 2. No right of representation is here involved. Our finding would have been the same even had it not developed that the engineers' organization had not canceled its agreement with the Carrier.

Case No. 10

Claim of Conductor C. Oltman and crew, Sacramento Division, for additional compensation while engaged in fire train service, May 15th to November 20th, 1926, except May 29, October 6 and 9, 1926.

(Defendant's Exhibit A continued)

This conductor member filed claim for additional compensation for each date he performed fire train service, May 15th to November 20, 1926. He was paid for three dates, May 29th, October 6th and 9th, 1926, but Carrier declines payment for other dates account alleged objection from another organization. (Strike Ballot Statement.)

In this case, conductor Oltman, a member of both the Order of Railway Conductors and the Brotherhood of Railroad Trainmen, presented through officers of both Organizations claims for extra compensation for himself and crew while engaged in fire train service. Through officers of the Order of Railway Conductors, the extra compensation sought was awarded by the Carrier for the dates October 6 and 9, 1926. Through officers of the Brotherhood of Railroad Trainmen, the extra compensation sought was awarded for the date May 29, 1926.

It is the contention of officers of the Brotherhood of Railroad Trainmen that on eighty-five other days between May 15 and November 20, 1926, conductor Oltman and his crew performed fire train service of the same kind as that for which extra compensation was awarded to him through their Organization for May 29, 1926, and that consequently, he and his crew are entitled to the extra compensation sought for the eighty-five additional days in question.

(Defendant's Exhibit A continued)

Officers of the Order of Railway Conductors join with the Carrier in contending that the claim of conductor Oltman is invalid because it was not presented before April 1934, when in the process of revising the fire train rule of the Conductors' Agreement (Article 30) they reached an understanding that the Carrier would not be obligated to pay claims for additional compensation arising under that rule in addition to those already presented to it. Also, officers of the Order of Railway Conductors contend that the claim of conductor Oltman's crew for added compensation is invalid because it is contrary to a similar understanding between the Carrier and officers of the Brotherhood of Railroad Trainmen reached during the process of revising the rule in the Trainmen's Agreement applicable to fire train service (Article 27) settling existing claims for added compensation on account of fire train service. The Carrier contends that the claim of conductor Oltman and crew is farther invalidated by the fact that the service performed on the eighty-five days for which additional compensation is sought was not the same as that performed on May 29, October 6 and 9 for which additional compensation was granted, but evidence to support this contention was not presented.

This case results from the fact that conductor Oltman was a member of both organizations and courted complications when he filed claims through each of them. However, the rule is, as we under-

(Defendant's Exhibit A continued)

stand it, that when an interpretation of a rule is agreed upon and a case settled accordingly, an employee is entitled to have the same settlement applied with reference to subsequent services of the same character as that in which the settlement was reached. In this case the interpretation of the rule was agreed upon by the conductors organization and the Carrier with reference to the services of October 6 and 9, 1926. It was applied to the services of May 29, 1926, as to which conductor Oltman was represented by the trainmen's organization. We believe that he is entitled to similar compensation for all like services up to the time when the Carrier and conductors organization agreed to change the rule, April 10, 1934.

The conductors organization had no right to agree (nor do we believe that it intended to agree) that Oltman's claims for the period May 29-October 6, to which he was represented by the trainmen's organization should be waived. It was apparently a matter of oversight that he and his crew were not safeguarded when the two organizations agreed with the Carrier to change the rule. If the trainmen's organization had waived his rights even unintentionally, or if the conductors' organization had had the right to do so, he would have had no recourse. Neither of these circumstances existed, however, so far as we can discover. He still has the right to be represented by the trainmen's organization in accordance with the accepted interpretation

(Defendant's Exhibit A continued)

of the rule as agreed upon by the conductors' organization and the Carrier up to April 10, 1934. To find otherwise would be to find that the conductors' organization had the right to compromise the claim of an employee represented by the trainmen's organization.

The Board recommends that the Carrier should negotiate with the trainmen's organization alone with regard to this case.

The contention was raised that the services here involved were different from those which were settled, but nothing was presented in the testimony tending to offset the positive evidence offered in behalf of Oltman. If there is any substantial evidence showing that the character of the employment for the period covered by the present claim is different from that as to which claims were allowed, it can, of course, be considered in the negotiations or presented in subsequent proceedings.

Case No. 12

(Mediation Case A-85.) Cancellation part-time mileage agreement dated March 21st, 1933, effective April 1st, 1933, and Carrier's instructions December 22, 1934, making effective Conductors' Mileage Limitation Agreement of March 17th, 1933, applicable to part-time men.

This dispute involves the action of Carrier in agreeing to place part-time men under the

(Defendant's Exhibit A continued)

Order of Railway Conductors' Mileage Agreement without the concurrence of the Brotherhood of Railroad Trainmen's Committee notwithstanding such part-time men worked a portion of each month under the Brotherhood of Railroad Trainmen's Schedule. (Strike Ballot Statement.)

On March 17, 1933, the General Chairman, Order of Railway Conductors, and the Assistant to General Manager, Southern Pacific Company, Pacific Lines, made what was known as the "Monthly Maximum Mileage Agreement."

By this Agreement, part-time conductors, i. e., trainmen working part of the time as conductors, were made subject to the provisions for mileage limitation in the Conductors' Agreement with the Carrier.

On March 21, 1933, the General Chairman, Order of Railway Conductors, joined with the General Chairman, Brotherhood of Railroad Trainmen, and the Carrier in making a joint Agreement governing the mileage of part-time conductors.

On August 21, 1934, the General Chairman of the Order of Railway Conductors served notice on the other parties to it of the desire to cancel the Agreement dated March 21, 1933. On December 22, 1934, the Carrier, feeling that by its terms the Agreement must be cancelled upon proper notice from one of the parties, gave notice to the Brother-

(Defendant's Exhibit A continued) —

hood of Railroad Trainmen that the Agreement had been cancelled, and instructed all superintendents that "until further advised, the Agreement reached March 17, 1933, with the General Chairman, Mr. McLennan, O. R. C., covering conductors, will apply also to part-time conductors."

The General Chairman, Brotherhood of Railroad Trainmen, protested this action, contending that its concurrence must be had to validate any agreement "effecting trainmen working regular or extra, and who are used as conductors any portion of the month" because they properly come under the mileage limitation provision of the Trainmen's Agreement with the Carrier.

This case involves the question of whether a part-time conductor is properly subject to the mileage limitation provisions of the Conductors' Agreement with the Carrier or subject to the mileage limitation provision of the Trainmen's Agreement with the Carrier. However, this question was not pressed when the officers of the Order of Railway Conductors and the Brotherhood of Railroad Trainmen entered jointly upon the Agreement of March 21, 1933, regulating, in their common interests, the mileage of men shifting back and forth between employment as conductors and trainmen. We feel that they were well advised in taking such an attitude.

The Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and En-

(Defendant's Exhibit A continued)

ginemen had a dispute in Cases No. 11 and No. 29 involving, as we understand it, the same general question before us in this case. They settled it amicably upon a basis which seems equitable to us. We recommend therefore that the several interests in this case settle it upon a similar basis. If there are differences in principle between this case and Cases No. 11 and No. 29, the case should be resubmitted to the National Board of Mediation since we believe that the question may have been simplified by the compromise made in these and other cases during the hearing.

Case No. 16

(Mediation Case A-139.) Request of Committee for withdrawal of formal thirty (30) days' notice by the Carrier of May 14th, 1935, of intention to abrogate Section (b), Article 32, Trainmen's Agreement.

Upon receipt of formal thirty days' notice from the Carrier the representatives of the Brotherhood invoked the services of the National Mediation Board, file A-139.

This case involves the principle as to the right of the Carrier to cancel or abrogate this schedule rule, or other schedule rules without an agreement with the Brotherhood's Committee.

The B. R. T. Committee contends that if any changes, such as zoning, etc., are to be made,

(Defendant's Exhibit A continued)

it should be by negotiations with such committee and not with or by request of some other organization, in that the rights of trainmen to perform service in accordance with their choice and seniority is involved. (Strike Ballot Statement.)

Section (b), Article 32, of the Trainmen's Agreement with the Carrier, against the abrogation of which the officers of the Brotherhood of Railroad Trainmen protest, makes the following provision:

A trainman with sufficient seniority as conductor to enable him to hold regular assignment as such on his seniority district, will not be permitted to perform service as brakeman, either regular or extra.

Virtually, the same provision is made by Section (b), Article 36, of the Conductors' Agreement with the Carrier, which states that:

A conductor with sufficient seniority as conductor to enable him to hold regular assignment as such on his seniority district, will not be permitted to perform service as brakeman, either regular or extra.

Under these rules, an employee eligible to hold a regular assignment as a conductor may be forced to take an assignment distant from his home and otherwise inconvenient to him, when he would prefer work as a brakeman on a more convenient run.

(Defendant's Exhibit A continued).

Consequently, on May 1, 1935, the General Chairman of the Order of Railway Conductors served the customary (30 days) notice on the Carrier that his Organization wished to eliminate Section (b), Article 36, of its Agreement with the Carrier. Since this rule is virtually identical with Section (b), Article 32, in the Trainmen's Agreement, the Carrier, to keep uniformity in the two Agreements, and also because the rules in question had not been applied satisfactorily from its point of view, on May 14, 1935, gave the General Chairman of the Brotherhood of Railroad Trainmen the customary notice of its desire to eliminate Section (b), Article 32, of its Agreement with the Trainmen's Organization. It is the withdrawal of this notice which the Brotherhood of Railroad Trainmen seeks.

According to the Carrier, the rules in question at present apply to only 2,495 miles of the total of 7,841 miles in its system, having either been waived or superseded by the creation of so-called seniority zones through its Agreement with the Organizations affected. The Carrier and the officers of the Brotherhood of Railroad Trainmen have also agreed upon additional seniority zones which, if adopted, would, together with waivers, supersede the application of the rules in question over its entire system. On this basis, the Carrier is willing to withdraw its notice to the Brotherhood of Railroad Trainmen of its desire to eliminate Section (b), Article 32, of the Trainmen's Agreement. Officers of the Order of

(Defendant's Exhibit A continued)

Railway Conductors, however, object to such a settlement of this controversy.

We feel that such hardships as may be imposed upon employees eligible to hold regular assignments as conductors by the rules in question can be eliminated by the adoption of appropriate seniority zone arrangements. Whether or not the arrangements agreed upon by the Carrier and the officers of the Brotherhood of Railroad Trainmen are proper, we do not know. If not, we feel it incumbent upon the officers of the Order of Railway Conductors to join with the officers of the Brotherhood of Railroad Trainmen in work toward an agreement on proper seniority zones to supersede the rules in question upon that minor portion of the Carrier's Pacific Lines where they still apply.

Officers of the Order of Railway Conductors and the Brotherhood of Railroad Trainmen cooperated in placing the rules in question in their Agreements and so placed them over the objection of the Carrier. They should cooperate in removing them or superseding them by appropriate zoning arrangements. In the meantime, we do not feel that the Carrier, having reached an Agreement with officers of the Brotherhood of Railroad Trainmen on a mutually acceptable solution of the problem presented should press its request that Section (b), Article 32 of its Agreement with the Trainmen's Organization be eliminated.

(Defendant's Exhibit A continued)

Case No. 18

Claim of Yardmen E. L. Corbett, R. Nichols, E. G. Van Scoy, and R. A. Smith, Tucson Division, for one hour March 23, 1934, and claim of Yardmen E. L. Corbett, R. C. Mullins, R. Nichols, and H. L. Kiser, for one hour July 11, 1934; also request that check-back be made to cover yard crews who were required to go beyond Mile Post 986 from January 1st, 1926, to date of settlement of this case. Similar case is pending from the yardmen, at Watsonville Junction, Coast Division (Docket Case No. 284).

On January 1st, 1926, the Carrier extended Yard Limit Board at Tucson and dispute was submitted to Train Service Board of Adjustment, and on February 18, 1932, the Board rendered Decision No. 4540, reading:

This controversy involves the right of the Carrier to change switching limits without regard to schedule provisions covering payments in road service. The Board has heretofore expressed its opinion on the expansion or contraction of switching limits in the following language:

The Board decides that the location or relocation of yard limit boards is a managerial prerogative, but that yard limit boards do not necessarily designate switching limits.

(Defendant's Exhibit A continued)

It is believed changing switching limits should properly be subject to negotiations between the Management and interested employees because rates of pay and rules are involved.

In this particular case the Board does not understand that the switching limits were changed in accordance with the above quoted decision, and the case is therefore remanded to the parties at interest to dispose of in accordance therewith.

The Carrier agreed with the Firemen's Committee to grant an increase in rates of pay to Firemen where required to perform service beyond the former location of the yard limit board, with provisions for retroactive payment to January 1st, 1926.

The Carrier declines to negotiate settlement or grant yardmen the same consideration afforded firemen. (Strike Ballot Statement.)

In support of these claims the officers of the Brotherhood of Railroad Trainmen contend that several years ago the Carrier arbitrarily extended the yard limits at Tucson, Arizona, and Watsonville Junction, California, and thus became liable to pay yard crews extra compensation for every time they passed the old yard limits. In support of this contention they cite Article 15 of the Yardmen's Agreement with the Carrier, as follows:

(Defendant's Exhibit A continued)

Where regularly assigned to perform service within switching limits, yardmen shall not be used in road service when road crews are available, except in case of emergency. When yard crews are used in road service under conditions just referred to, they shall be paid miles or hours, whichever is the greater, with a minimum of one hour, for the class of service performed, in addition to the regular yard pay and without any deduction therefrom for the time consumed in said service.

The Carrier contends that there is nothing in its Agreement with the Yardmen which restricts in any way its right to extend yard limits; that such an extension is distinctly advantageous to yard crews in enlarging the volume of work available to them; and that hence there is no basis in any existing Agreement with the Brotherhood of Railroad Trainmen or in equity for the claim of added compensation for Yardmen on account of extension of yard limits in the cases in question. There is no evidence showing that the extension of the yard limits was not reasonable or that it was made for the purpose of using Yardmen for actual road service.

Since the officers of the Brotherhood of Railroad Trainmen predicate these claims upon an interpretation of the Yardmen's Agreement with the Carrier, which the Carrier does not accept, the cases should

(Defendant's Exhibit A continued)

be referred to the National Railroad Adjustment Board, Division 1.

Case No. 24

Claim of Brakeman J. H. Carter, Coast Division, for double miles, San Luis Obispo-Santa Barbara and Santa Barbara-San Luis Obispo, June 20, 1934, and dispute as to elimination of helper district involved.

At the time the helper district was agreed to, there were two grades on this district in excess of one per cent, but they were eliminated in 1928 and since that time the Carrier has operated double-headers from terminal to terminal, holding that the second engine was a helper, and have handled far in excess of the tonnage of one engine or tonnage that had been previously handled by engine and helper; in fact, they are handling approximately the rating of two engines over the district. (Strike Ballot Statement.)

In this case the officers of the Brotherhood of Railroad Trainmen supported the claim of brakeman Carter for double miles San Luis Obispo-Santa Barbara and Santa Barbara-San Luis Obispo by the contention that the Manager of this section of the grades in the territory in question that it is no longer properly classified as a helper district. The Carrier disputes the facts presented by the officers

(Defendant's Exhibit A continued)

of the Brotherhood of Railroad Trainmen in support of their contention. In the meantime, the Agreement between the Brotherhood of Railroad Trainmen and the Southern Pacific Company, Pacific Lines, provides, in Article 26, that Santa Barbara-San Luis Obispo is helper territory. There has been no careful joint inquiry by the Carrier and the Brotherhood of Railroad Trainmen directed to the question as to whether the Agreement should be revised in this regard.

As a claim arising under the Agreement of the Brotherhood of Railroad Trainmen, we fail to see where the claim of brakeman Carter has merit, since it seems to be directly contrary to the applicable Article of this Agreement. However, the National Railway Adjustment Board, Division 1, is available to decide this question.

On the question of whether, in fact, the territory Santa Barbara-San Luis Obispo is helper territory, we suggest that negotiation between the Carrier and the Brotherhood of Railroad Trainmen would be appropriate, and that successful negotiation might be facilitated by establishment of a Joint Committee of Inquiry to report on the physical facts involved which are currently in dispute.

Conclusion

The controversies, on which we have made findings and recommendations in this report, arise pri-

(Defendant's Exhibit A continued)

marily from failure to observe carefully the explicit provisions and the spirit of the Railway Labor Act. Strict observance of this Act would reduce the array of controversies we have reviewed to trivial proportions. We earnestly commend the parties in conflict to such observance.

Toward the close of our hearings a national officer of one of the four labor organizations involved in these disputes asserted, without challenge, "this is not a strike against the Southern Pacific Railroad, it is a fight between these organizations." Though we feel that the management of the Southern Pacific Company, Pacific Lines, by greater certainty and centralization in its handling of claims for the adjustment of grievances, would have mitigated the conflict, we found that there is much truth in the statement quoted above. We feel that these four great railroad employee organizations owe it to their members, to their admirable history, and to the public to settle their interorganization disputes without any such threatened interruption of interstate commerce as that which caused you to create this Board.

Respectfully submitted.

(S) G. STANLEIGH ARNOLD.

(S) CHARLES KERR.

(S) DEXTER M. KEEZER.

[Endorsed]: Exhibit No. A for Identification.
Filed Oct. 10, 1940.

[Endorsed]: No. 9991. United States Circuit Court of Appeals for the Ninth Circuit. General Committee of Adjustment of the Brotherhood of Locomotive Engineers for the Pacific Lines of Southern Pacific Company, an unincorporated association, Appellant, vs. Southern Pacific Company, a corporation, and General Grievance Committee of the Brotherhood of Locomotive Firemen and Enginemen, an unincorporated association, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed December 5, 1941.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 9991

GENERAL COMMITTEE OF ADJUSTMENT
OF THE BROTHERHOOD OF LOCOMO-
TIVE ENGINEERS FOR THE PACIFIC
LINES OF SOUTHERN PACIFIC COM-
PANY, an unincorporated association,

Appellant,

vs.

SOUTHERN PACIFIC COMPANY,

a corporation,

Appellee,

GENERAL GRIEVANCE COMMITTEE OF
THE BROTHERHOOD OF LOCOMOTIVE
FIREMEN AND ENGINEMEN, an unincor-
porated association,

Intervener.

STATEMENT OF POINTS, AND
DESIGNATION OF PRINTING

The following is a statement of the points on
which the appellant intends to rely upon this ap-
peal:

I.

The evidence is insufficient as a matter of law to
support the following findings, each thereof being
separately or severally specified:

(a) Finding 4(a), in substance, that plaintiff
has been ever since the enactment of the Railway

Labor Act the representative of the class or craft of locomotive engineers on Pacific Lines only "for purposes of collective bargaining and agreement," and thereby negating the allegation of plaintiff's complaint that it is the representative of said class or craft of locomotive engineers "for all the purposes of said Act."

(b) Finding 5, in substance, that agreements have been negotiated between plaintiff and defendant and between defendant and intervener concerning rates of pay, rules and working conditions of the crafts of engineers and firemen.

(c) Finding 6(a), in substance, that there are constant changes in the duties and status of the engine employees and a constant ebb and flow between the craft of engineers and firemen.

(d) Finding 6(c), in substance, that on January 1, 1940, one-fifth of the firemen employed had been demoted from the engineers' working list and that on July 1, 1940, approximately one-seventh of the firemen employed had been demoted from the engineers' working list.

(e) Finding 7(a), in substance, that an individual engineman who chooses not to act individually for himself, but through a representative, with respect to the disputes mentioned in said finding, may choose a representative other than the one chosen by the majority of said class or craft of locomotive engineers with respect to rights under the Engineers' Agreement.

(f) Finding 7(b), with respect to the scope and meaning of "the usual manner of handling," and, in substance, that a representative may be chosen by an individual member of a craft or class, other than the representative chosen by the majority of the craft or class.

(g) Finding 7(b), in that said finding fails to include the statement, i.e., omits to find, that the "usual manner of handling" requires that all claims and grievance cases be handled in accordance with the recognized interpretation of the General Committee making the schedule.

(h) Finding 7(c), in substance, that on almost every railroad of the United States the usual manner of handling claims and grievances of enginemen is as set forth in finding 7.

(i) Finding 8, in substance, that the engineers' and firemen's Brotherhoods are in competition for members and that if members of the firemen's Brotherhood were required to present their individual claims and grievances through the engineers' Brotherhood such would discourage membership in the firemen's Brotherhood and encourage membership in the engineers' Brotherhood.

(j) Finding 8, in substance, that the presentation of such claims and grievances by a representative other than the representative chosen by the majority of the craft or class of engineers does not affect or alter the Engineers' Agreement or infringe any right of plaintiff as the representative of the craft or class of engineers.

(k) Finding 9, in substance, that a provision similar to Section 1, Article 51, of Firemen's Agreement has appeared in all contracts of the Brotherhood of Locomotive Engineers, or the agencies thereof, with defendant.

(l) Finding 10, in substance, that the so-called mileage provisions of the Firemen's Agreement, which are mentioned in the complaint, are provisions concerning which it is competent for the intervenor to bargain and contract with the defendant.

(m) Finding 10, insofar as the "direct interest" therein mentioned is intended to mean that the craft of firemen has any right to bargain or contract with defendant as to any matter or matters with regard to which the majority of the craft or class of locomotive engineers has designated the plaintiff as its representative.

(nn) Finding 10, insofar as the "direct interest" therein mentioned is intended to mean that the craft of firemen has any right to bargain or contract with defendant concerning rates, of pay, rules and working conditions of the craft of locomotive engineers as to which the majority of the craft or class of locomotive engineers has designated the plaintiff as its representative.

(n) Finding 11(a), in substance, that Section 2 of Article 43, of Firemen's Agreement, sets forth conditions upon which an engineer has the privilege of displacing a fireman.

Southern Pacific

(o) Finding 11(a), in its intended meaning, that any provision 3 of Article 43, Firemen's Agreement, should regulate the number of demoted engineers who have returned to the engineers' working lists) in accordance with the provisions of said sections, or of

(p) Finding 11(a), in its intended meaning, that any provision 4 of Article 43, Firemen's Agreement, should regulate the number of demoted engineers who have returned to the engineers' working lists) in accordance with the provisions of said sections, or of

(q) Finding 11(b), in its intended meaning, that any provision 6 of Article 43, Firemen's Agreement, should regulate the distance between the demoted engineers and the engineers' working lists) in accordance with the provisions of said sections, or of

(r) Finding 12(a), in its intended meaning, that any provision 12(a) of Article 43, Firemen's Agreement, should regulate the distance between the demoted engineers and the engineers' working lists) in accordance with the provisions of said sections, or of

(s) Finding 12(b), in its intended meaning, that any provision 12(b) of Article 43, Firemen's Agreement, should regulate the distance between the demoted engineers and the engineers' working lists) in accordance with the provisions of said sections, or of

(t) Finding 14, in its intended meaning, that any provision 14 of Article 43, Firemen's Agreement, should regulate the distance between the demoted engineers and the engineers' working lists) in accordance with the provisions of said sections, or of

far as said finding is of the provisions in Section's Agreement, require displaced firemen to be working lists (as distinguished from the firemen's with the mileage limit otherwise.

far as said finding is of the provisions of Firemen's Agreement, of engineers to be assigned or to place any limitations of engineers.

substance, that Article Agreement, was and is placement of firemen.

substance, that the miles' and firemen's agreement, and, on Pacific Lines, rules governing demotion of firemen since identically identical.

substance, that on the demoted engineers to be created by agreement on

nce, that questions and Section 45, of the Fire-are intended and reach the craft of firemen

and have a reasonable relation to firemen's seniority rules, insofar as such questions and answers purport to and do regulate the determination of engineers' emergency service.

(u) Finding 16, in substance, that Section 1 of Article 43 is the substantial equivalent of Section 36(a) of agreement between the firemen's Brotherhood and defendant dated May 16, 1910.

(v) Finding 16, in substance, that all provisions of said Article 43 quoted in the complaint, with the exception of the last three paragraphs thereof, appeared in substantially the same form in Article XI of the Chicago Joint Agreement dated May 17, 1913.

II.

Each of the findings hereinabove specified is clearly erroneous, due regard being given to the opportunity of the trial court to judge of the credibility of the witnesses.

III.

Neither the evidence nor the facts found supports Conclusion of Law 2, or the corresponding matter in the Decree.

IV.

Neither the evidence nor the facts found supports Conclusion of Law 3(a) and (b), or the corresponding matter in the Decree.

V.

Neither the evidence nor the facts found supports Conclusion of Law 4, or the corresponding matter in the Decree.

VI.

Neither the evidence nor the facts found supports Conclusion of Law 5, or the corresponding matter in the Decree.

VII.

The evidence is insufficient as a matter of law to support a conclusion or judgment in favor of defendant or intervener.

DESIGNATION OF PRINTING

Appellant therefore designates the whole of the record (including this Statement and Designation) for printing.

GEORGE M. NAUS

Attorney for Appellant

C. E. WEISELL

Of Counsel for Appellant

Receipt of a copy of the foregoing Statement of Points and Designation of Printing, this 30th day of December, 1941, is hereby acknowledged.

C. W. DURBROW

HENLEY C. BOOTH

BURTON MASON

Attorneys for Appellee

DONALD R. RICHBERG

EUGENE W. PRINCE

Attorneys for Intervener

[Endorsed]: Filed Dec. 31, 1941. Paul P. O'Brien,
Clerk.